

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:22-cv-21004-DPG

JESSICA GUASTO,

Plaintiff,

vs.

THE CITY OF MIAMI BEACH, FL,
a Florida municipality,

Defendant.

_____/

2 South Biscayne Boulevard
Miami, Florida
Tuesday, February 6, 2024
9:00 a.m. to 3:00 p.m.

VIDEOTAPED DEPOSITION OF JESSICA SALABARRIA (GUASTO)

Taken before Marlene Gutierrez, Notary
Public, State of Florida at Large, pursuant to Notice
of Taking Deposition filed in the above cause.

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APPEARANCES:

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On behalf of the Defendant.

ALSO PRESENT:
JAVIER ORDONEZ, Videographer

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THE VIDEOGRAPHER: Good morning. We are going
on the record at 8:58 a.m. on February 6th, 2024.
This is media unit 1 of the video-recorded
deposition of Jessica Guasto taken by counsel in the
matter of Jessica Guasto v. City of Miami Beach.
The location of this deposition is 2 South Biscayne
Boulevard in Miami, Florida.
My name is Javier Ordonez. I am the videographer.
The court reporter is Marlene Gutierrez. And we are
both here with the firm Veritext.
Will counsel please introduce themselves for the
record, after which the court reporter will swear in
the witness.
MR. DARAGJATI: Paul Daragjati and Rose
Daragjati on behalf of Jessica Guasto, the
plaintiff.
MR. ELKINS: Michael Elkins on behalf of the
City of Miami Beach, and appearing via Zoom, Henry
Hunnefeld and Benjamin Braun from the city
attorney's office.
THE COURT REPORTER: Ma'am, would you raise
your right hand, please.

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Witness

JESSICA SALABARRIA (GUASTO)

Direct Examination By Mr. Elkins5

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Thereupon --

JESSICA SALABARRIA (GUASTO)

was called as a witness by the Defendant and, having
been first duly sworn, and responding, "Yes," was
examined and testified as follows:

DIRECT EXAMINATION

BY MR. ELKINS:

Q Good morning.

A Good morning.

Q How do you want me to address you? Is it
Mrs. Guasto or Ms. Guasto?

A Jessica Guasto or Salabarria is fine, because I
recently just got my name changed back to Salabarria.

Q Okay. So we'll talk about that in a little bit.
Have you ever given a deposition before?

A Yes.

Q Okay. When?

A In criminal court, for cases where I've arrested
defendants.

Q How many times have you been deposed?

A Off the top of my head, I don't have a number.

Q Best guess.

A I don't have a number.

Q Have you ever been deposed in a civil case?

A No.

<p style="text-align: right;">Page 6</p> <p>1 Q Okay. So civil depositions might be a little 2 bit different, so I'm going to go over a few ground 3 rules for today. Hopefully, it'll make this go a 4 little bit faster.</p> <p>5 The first rule is that even though you're on 6 video today, we have a court reporter here who's taking 7 down everything we say, so you have to give audible 8 answers. You can't nod your head or, like, say "mmm" 9 and "ah." Do you understand that?</p> <p>10 A Okay.</p> <p>11 Q The second rule, probably the most important 12 one, and definitely the one we both have to follow, is 13 that the court reporter can't take down two people 14 talking at the same time. So we both have to do our 15 best to not talk over each other. I know at points 16 you're probably going to be able to anticipate the 17 answers to some of my questions and you might have the 18 urge to just answer, but I'm going to ask that you try 19 to refrain from doing that. By the same token, I am 20 going to try to refrain from interrupting you or 21 cutting you short or doing anything like that, which 22 will make life a lot easier for all of us.</p> <p>23 Do you understand that?</p> <p>24 A I understand.</p> <p>25 Q Okay. At no point today in any of my questions,</p>	<p style="text-align: right;">Page 8</p> <p>1 Q Okay. Was it more or less than two hours?</p> <p>2 A I don't remember.</p> <p>3 Q More or less than four hours?</p> <p>4 A I don't remember.</p> <p>5 Q Okay. Did you review any documents in 6 preparation for this deposition?</p> <p>7 A Yes, we did.</p> <p>8 Q Did you independently review any documents?</p> <p>9 A Yes, I did.</p> <p>10 Q Okay. Tell me what documents you independently 11 reviewed.</p> <p>12 A So I reviewed my EEOC complaints. I reviewed 13 the court complaints. I reviewed the -- the documents 14 that were submitted from the city, with allegations, as 15 well as the letter that the chief wrote to -- to -- 16 to -- I forgot the word -- basically the letter that he 17 wrote when he subsequently removed -- separated me from 18 the city.</p> <p>19 I'm sorry about that.</p> <p>20 Q It's okay.</p> <p>21 What else, if anything?</p> <p>22 A Just other documents. I don't know on the top 23 of my head.</p> <p>24 Q Okay. And I asked you earlier, you know, how 25 you prefer to be addressed, and you mentioned that you</p>
<p style="text-align: right;">Page 7</p> <p>1 no matter what I ask you, am I asking you to tell me 2 what you spoke to your lawyer about in any context. So 3 for every question I ask, do not reveal to me anything 4 that you spoke to your lawyer about, even if the 5 question -- if answering it would require you to tell 6 me what you talked to your lawyer about, I'm not asking 7 that. And I'm sure your lawyer will jump in and make 8 sure that you don't do that, but I just want to be 9 clear.</p> <p>10 Do you understand that?</p> <p>11 A I understand.</p> <p>12 Q Okay. Did you do anything to prepare for this 13 deposition?</p> <p>14 A Yes. With my attorney.</p> <p>15 Q Okay. And did you meet with your attorney?</p> <p>16 A Yes.</p> <p>17 Q When did you meet with him?</p> <p>18 A I met with him on several dates.</p> <p>19 Q Okay. What were the dates?</p> <p>20 A Off the top of my head, one was yesterday, and 21 then subsequent to that, a few days before this 22 deposition.</p> <p>23 Q How long did you meet with him yesterday?</p> <p>24 A Off the top of my head, I don't have the 25 approximate time, but it was lengthy.</p>	<p style="text-align: right;">Page 9</p> <p>1 just recently had your name changed back to Salabarría; 2 is that correct?</p> <p>3 A That is correct.</p> <p>4 Q So you recently divorced?</p> <p>5 A Yes.</p> <p>6 Q When did you get divorced?</p> <p>7 A I believe it was in June of last year.</p> <p>8 Q June of 2023?</p> <p>9 A Yes.</p> <p>10 Q Okay. Okay. And have you talked with Mr. Nick 11 Guasto about this case since the divorce?</p> <p>12 A No.</p> <p>13 Q Okay. Are you currently working?</p> <p>14 A No.</p> <p>15 Q Where were you last employed?</p> <p>16 A I was last employed with Opa-locka Police 17 Department.</p> <p>18 Q Okay. When -- what were the dates of those -- 19 that employment?</p> <p>20 A October of 2023 till November of 2023.</p> <p>21 Q What was your role there?</p> <p>22 A Police officer.</p> <p>23 Q What was your rate of pay?</p> <p>24 A Approximately 40,000 a year.</p> <p>25 Q And who was your direct supervisor?</p>

<p style="text-align: right;">Page 10</p> <p>1 A My direct supervisor was Lawrence Holborow. 2 Q How do you spell his last name? 3 A H-O-L-B-O-R-O-W. 4 Q And why do you no longer work there? 5 A Because I was separated from Opa-locka. 6 Q Why? 7 A An incident occurred in Opa-locka, and since I 8 was on probation, they didn't give me a reason and they 9 separated me. 10 Q What was the incident? 11 A The incident was a complaint. 12 Q What was the complaint? 13 A The complaint was me complaining about an 14 officer who stepped on my shoe, unwarranted and 15 unwanted. And I brought it up to my chain of command, 16 and subsequent to that, I was separated. And he also 17 spoke to me in derogatory manners. So I let my chain 18 of command know, and subsequent to that, I was 19 separated. 20 Q I'm not ignoring you. I'm just taking notes. 21 A That's fine. 22 Q So I apologize for the delay. 23 Okay. Let me go back to that. You said that an 24 officer stepped on your shoe? 25 A Yes. Intentionally and purposefully.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q You don't remember his first or last name? 2 A I believe -- I don't remember for sure his first 3 name, but his last name is -- starts with an L, like 4 Lafore or Lafavore, one of those two. 5 Q Was he an officer or a sergeant or a lieutenant? 6 A He was an officer. 7 Q Okay. And so you made a complaint about this 8 officer -- we'll call him Lafave for purposes of the 9 deposition -- to your chain of command about him, as 10 you described, violently stepping on your foot? 11 A Yes. 12 Q And then you also said he spoke to you in a 13 derogatory manner; is that right? 14 A Yes. When I -- 15 Q What did he do? 16 A -- told him to cease. 17 Q What did he say? 18 A He said a lot of profanity. 19 Q Okay. And who did you complain to? 20 A I complained to my lieutenant, which was 21 Lieutenant Holborow. 22 Q Did you file like a formal complaint? 23 A I did, yes. 24 Q Okay. Make sure to let me finish the question. 25 A I'm sorry.</p>
<p style="text-align: right;">Page 11</p> <p>1 Q Like in an attempt to hurt you? 2 A I don't know what his intention was, but I know 3 that it was unwarranted and unwanted. And I -- and it 4 was inappropriate. 5 Q Did he like slam his foot down on your shoe? 6 Was it -- I'm just trying to get a little bit more 7 detail on exactly what you mean by stepped on your 8 shoe. 9 A Yes. He walked up to me and stepped on my shoe. 10 His intention, I don't know, but I told him to cease. 11 I -- 12 Q Like -- I'm sorry. Continue. I apologize. 13 A I told him to cease, and I said it was 14 inappropriate. And I brought it up to my chain of 15 command. 16 Q Did he do it, like, violently? 17 A Yes. 18 Q Okay. And what's his name? 19 A I don't remember his first name. 20 Q What's his last name? 21 A His last name is -- give me a second, because I 22 don't -- 23 Q Take your time. 24 A I worked -- I barely worked with him, so I don't 25 remember his name right now.</p>	<p style="text-align: right;">Page 13</p> <p>1 Q That's okay. It's just because she can't take 2 us down talking at the same time. So we just have to 3 be super careful, because she's the most important 4 person in this room, the court reporter. I know you're 5 not doing it on purpose. 6 So let me ask again. Did you file a formal 7 complaint? 8 A Yes, I did. 9 Q What's that called at Opa-locka? Is there a 10 name? 11 A There was no name. I just filed a complaint and 12 sent it up my chain of command through my lieutenant. 13 Q And was this in November of 2023? 14 A Yes. 15 Q And how long is the probationary period for a 16 police officer at Opa-locka? 17 A I believe a year. 18 Q And you said earlier, though, that they let you 19 go because you were within your probationary period? 20 A Yes. 21 Q But if you were let go in -- okay. I see. So 22 it was not a long period of time that you worked there? 23 It was -- 24 A That is correct. 25 Q -- one month.</p>

<p style="text-align: right;">Page 14</p> <p>1 I was thinking it was over a year, but 2 October 2023 to November 2023 is a month. 3 So you make this complaint, and they don't -- 4 instead of doing anything about it, they just 5 terminated you? 6 A Yes. 7 Q And they didn't give you a reason why? 8 A No. 9 Q How long after you made the complaint did they 10 let you go? 11 A Between a week to two weeks. 12 Q Okay. Have you filed any kind of complaint 13 against Opa-locka -- 14 A No. 15 Q -- an EEOC charge or anything? 16 A No. 17 Q Are you planning to? 18 A I filed for a hearing. 19 Q With? 20 A With the city. Because there was no 21 investigation. There was no -- my complaint went 22 unheard. There was no due process. There was no steps 23 that they took to remedy my complaint or to investigate 24 my complaint. And so I filed with the city for a 25 hearing, and I'm waiting on that.</p>	<p style="text-align: right;">Page 16</p> <p>1 Q Okay. Have you looked for employment since 2 November of 2023? 3 A Yes. 4 Q Okay. Where have you sought employment? 5 A I looked through employment through Indeed, and 6 I've applied to various jobs. 7 Q What jobs? 8 A It varies from jobs with education, with 9 director of security, with private sector jobs -- 10 Q Can you -- 11 A -- just anything that has to do with public 12 administration. 13 Q Name for me the companies that you've applied 14 for employment with since your separation in November 15 of 2023. 16 A So from the top of my head, I recollect one, 17 which is Florida Commission of Offenders. 18 Q What is that? 19 A That is a review of documentations of offenders 20 where they're requesting for clemency or to be put on 21 probation. And you're an investigator that reviews 22 their -- their request, and you send up a report 23 through your chain, through the Florida Commission. 24 Q What's the job that you applied for there? 25 A As an investigator.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q When you say filed with the city for a hearing, 2 is that like under their personnel rules? 3 A Yes. 4 Q Is it like -- make sure you don't interrupt. 5 I'm sorry. Again, it's going to make her job a lot 6 easier. 7 You're saying you filed for a hearing under, 8 like, the personnel rules or the civil service rules? 9 A Yes. 10 Q Was it -- do you know if it's civil service 11 rules or personnel rules? 12 A I believe it's the personnel rules. 13 Q Okay. When's that hearing taking place? 14 A I don't have a date. 15 Q Okay. And I presume at that point, you were not 16 part of the union or part of the -- didn't have any 17 rights under the union or the collective bargaining 18 agreement, correct? 19 A That is correct. 20 Q And what's the union over there? Is it FOP or 21 PBA? 22 A PBA. 23 Q Okay. So they obviously didn't take any action 24 on this? 25 A No.</p>	<p style="text-align: right;">Page 17</p> <p>1 Q When did you do that? 2 A About a month ago. 3 Q And how did you do it? Like online? Did you -- 4 A Through Indeed. 5 Q Through Indeed. 6 What other companies did you apply for 7 employment at? 8 A A lot of companies. I can't name them off the 9 top of my head. 10 Q Can you name any of them besides this one? 11 A No. 12 Q So just so I got it straight, from November 2023 13 till present day, you can only remember one company 14 that you've applied for employment with? 15 A Yes. 16 Q Okay. Are there records through Indeed of the 17 companies that you've applied for employment with since 18 November 2023? 19 A Yes. 20 Q And where are those records? 21 A If I log on, they're there, probably. I don't 22 know how long they keep the records. 23 Q Did you independently keep any records? 24 A No. 25 Q So if they're not stored in Indeed, then they</p>

<p style="text-align: right;">Page 18</p> <p>1 don't exist?</p> <p>2 A I don't know how Indeed works.</p> <p>3 Q You understand, though, that because of your</p> <p>4 lawsuit, you're under a duty to preserve documents,</p> <p>5 correct?</p> <p>6 A Yes.</p> <p>7 Q And you know that you have a duty to mitigate</p> <p>8 your damages, right?</p> <p>9 A Yes.</p> <p>10 Q And you understand that applications for</p> <p>11 employment are evidence, potentially, of your</p> <p>12 satisfaction or nonsatisfaction of that duty, right?</p> <p>13 A Yes.</p> <p>14 Q And you're not saving the -- your job</p> <p>15 applications?</p> <p>16 A Like I said, I do it through Indeed. It doesn't</p> <p>17 give you an option to download them. It goes directly</p> <p>18 to the employer.</p> <p>19 Q Have you kept any lists?</p> <p>20 A No.</p> <p>21 Q So other than Indeed, for November 2023 going</p> <p>22 forward, there's no other record of where you've</p> <p>23 applied for employment?</p> <p>24 A As far as the date -- which dates are you asking</p> <p>25 me? Because you --</p>	<p style="text-align: right;">Page 20</p> <p>1 Q Is that the name of the company, Brickell City</p> <p>2 Centre?</p> <p>3 A Yes.</p> <p>4 Q What were the dates of employment there?</p> <p>5 A So it was March of 2023 till, I believe, August</p> <p>6 of 2023.</p> <p>7 Q What was your rate of pay there?</p> <p>8 A It was salary, and it was about 80,000 a year.</p> <p>9 Q How much did you earn when you were working</p> <p>10 there, total, if you remember?</p> <p>11 A I don't recall.</p> <p>12 Q Okay. Who was your supervisor?</p> <p>13 A My supervisor is Michael Serrano -- was Michael</p> <p>14 Serrano.</p> <p>15 Q S-E-R-R-A-N-O?</p> <p>16 A Yes.</p> <p>17 Q Okay. And why did you not work there anymore?</p> <p>18 What happened?</p> <p>19 A So there was an incident that occurred where a</p> <p>20 violent male subject assaulted myself and another</p> <p>21 security guard while carrying out our duties as</p> <p>22 security officers. And subsequent to that, he was</p> <p>23 arrested for a felony and convicted. And he pled and</p> <p>24 he has -- he's providing a letter of apology as well as</p> <p>25 completing alcohol and drug abuse courses as part of</p>
<p style="text-align: right;">Page 19</p> <p>1 Q November 2023 --</p> <p>2 A Okay.</p> <p>3 Q -- forward.</p> <p>4 A November 2023, that is the only place that I</p> <p>5 have applied, which is the Florida Commission.</p> <p>6 Q That's the only job you've applied for?</p> <p>7 A I'm sorry. That's the only job that I remember</p> <p>8 that I -- that I have the name of. But there has been</p> <p>9 various through Indeed. You just go through the list</p> <p>10 and you apply to the ones that you seem interested in.</p> <p>11 And the list is there. It's 50, 60 jobs.</p> <p>12 Q And of those 50 or 60 jobs, you can't remember a</p> <p>13 single other one?</p> <p>14 A They're usually through directors of security,</p> <p>15 public safety. I don't have the name.</p> <p>16 Q Okay. Did you do any other type of job</p> <p>17 applications or job searches from November 2023</p> <p>18 forward, or just through Indeed?</p> <p>19 A It has been just through Indeed.</p> <p>20 Q No recruiter of any kind?</p> <p>21 A No.</p> <p>22 Q Okay. Where did you work before Opa-locka</p> <p>23 Police Department? What was the job right before that?</p> <p>24 A I worked at Brickell City Centre as a director</p> <p>25 of security.</p>	<p style="text-align: right;">Page 21</p> <p>1 his plea.</p> <p>2 And so during that incident that occurred,</p> <p>3 subsequent to that, the director of the mall asked for</p> <p>4 me to be removed from -- from the director of security</p> <p>5 position because of the incident that occurred, even</p> <p>6 though the subject was arrested. I followed all</p> <p>7 procedures, and I carried out my duties. And you're an</p> <p>8 at-will employee at that point. And I have all the</p> <p>9 evidence and reports and videos that show the assault.</p> <p>10 And he was arrested, and he wrote me a letter of</p> <p>11 apology.</p> <p>12 Q Okay. You said a lot there, which I appreciate,</p> <p>13 so I'm going to back up and try to break that down a</p> <p>14 little bit and make sure that I understand it.</p> <p>15 First of all, you said the director of the mall</p> <p>16 asked that you be removed? Did I hear that right?</p> <p>17 A Yes.</p> <p>18 Q What's the name of the director of the mall?</p> <p>19 A His name is Dave Johnson.</p> <p>20 Q Dave Johnson.</p> <p>21 And I'm sorry, one thing I forgot to cover</p> <p>22 earlier -- and I should have said this at the</p> <p>23 beginning. A couple of basic things. One, if you need</p> <p>24 a break at any time, just let me know. This is not</p> <p>25 intended to keep you sitting there as long as possible.</p>

<p style="text-align: right;">Page 22</p> <p>1 So you can take a break whenever you need. I just ask 2 that you not take a break when there's a question 3 pending, and obviously, don't speak to your counsel 4 about your testimony on any break. 5 Do you understand that? 6 A Yes. 7 Q And, of course, if I ask a question and you 8 don't understand the question or you need me to clarify 9 it, absolutely ask me to do so. 10 Do you understand that? 11 A Yes. 12 Q Okay. I'm sorry I didn't tell you that earlier. 13 So when did this incident happen? 14 A It happened around September or August, either 15 early August or late September. I don't recall the 16 exact date. 17 Q Well, you said you only worked there until 18 August. 19 A Yes. 20 Q So the incident wouldn't have happened in 21 September, right? 22 A I'm sorry. Yes. So it had to be either in the 23 beginning of August -- so somewhere between July, like 24 late July, and early August. 25 Q Okay.</p>	<p style="text-align: right;">Page 24</p> <p>1 what do you -- what do you guys do? 2 A We basically intervened, because that was our 3 duty to do so, and we attempted to escort the 4 individual out of the mall. And he decided to get 5 physical with the officer and I, and he struck me 6 several times. And subsequent to that, the police came 7 and arrested him. And that was the extent of the 8 incident. It was captured on CCTV, and the officers 9 had probable cause to arrest him. And he was taken and 10 transported to jail. The state attorney upped it to a 11 felony, and he pled. 12 Q He pled to the felony? 13 A Yes. 14 Q So why is it or what was the reason that 15 Mr. Johnson asked for your removal? 16 A I don't know. 17 Q Well, tell -- 18 A I know that I was at will. I don't know if that 19 incident was something that -- I don't know. I don't 20 know the question to that. I just know that I did my 21 job and I did what I had to do, and I became a victim 22 of this belligerent male that was causing a scene and 23 assaulting myself and another officer. 24 Q When you say you became a victim of this male, 25 the guy who was drunk -- we'll call him the consumer at</p>
<p style="text-align: right;">Page 23</p> <p>1 A I don't have the date on top of my head. 2 Q And the incident involved like a customer at the 3 mall; is that right? 4 A Yes. 5 Q Who was apparently on drugs and alcohol and was 6 violent? 7 A Yes. 8 Q And then you and other officers interacted with 9 this individual? 10 A Yes. 11 Q Who were the other officers with you? 12 A It was another security officer. His name is 13 Dwight Cruz. 14 Q And what did the -- what's the name of the 15 individual who was, you know, on drugs and alcohol and 16 all that? What's his name? 17 A I don't know his name off the top of my head, 18 but I have it with me. 19 Q You have it with you? 20 A I'm sorry. I have it in my records. 21 Q Okay. And what records do you have of this? 22 A Just a copy of the plea and the apology letter 23 that I'm waiting for. 24 Q So this individual is violent at the mall, and 25 you interact with him with another security guard. And</p>	<p style="text-align: right;">Page 25</p> <p>1 the mall -- you mean because he struck you, or 2 because -- 3 A Yes. 4 Q -- you lost your job, or both? 5 A Both. But he did strike me. And subsequent to 6 that, because of that incident, I was let go. 7 Q Were you written up? 8 A No. 9 Q Were you talked to about it? 10 A No. 11 Q So I'm just trying to make sure I understand 12 exactly how the separation from employment occurred. 13 The incident happens, and then you go into work the 14 next day, several days later, and they just tell you, 15 We're going to terminate your employment? 16 A Yes. So what occurred was, after the incident, 17 I tried to speak to the director of security about the 18 incident, and he never got back with me. And then a 19 few days later, I was told that they're moving in a 20 different direction with another director. 21 Q The director of security is Dan or Michael? 22 A Dave. 23 Q Dave. Sorry. Yes. Dave Johnson. 24 A Yes. 25 Q Was there a problem with the incident that</p>

<p style="text-align: right;">Page 26</p> <p>1 caused you to want to talk to the director of security 2 about it? 3 A Well, it's my job to have a meeting with him 4 about the incident, because I report to him and I had 5 the duty to go over the incident with him and give him 6 details of what had occurred. And my security and I 7 went to go speak to him and he said he was busy at the 8 moment, and he never got back to me. 9 Q Okay. And did you ever follow up as to why you 10 were let go? 11 A I did not. 12 Q Did you bring any claim or are there any pending 13 claims against Brickell City Centre for that 14 termination? 15 A No. 16 Q Okay. 17 A Again, when you're at will, you really are at 18 will of the employer for any reason, that they can just 19 let you go, when it comes to the private sector. So in 20 that case, I did my job, I completed what I had to do, 21 this individual was arrested, and I did nothing wrong. 22 Q Why do you believe you were let go? 23 A I don't know. 24 Q Okay. And where did you work before Brickell 25 City Centre?</p>	<p style="text-align: right;">Page 28</p> <p>1 Q What does that mean? 2 A So, basically, he provides security officers to 3 the mall for us to -- to hire and interview. He 4 provides our security officers. 5 Q Like through third parties? 6 A Yes. 7 Q So you worked directly for Brickell City 8 Centre -- 9 A Yes. 10 Q -- which is a company, I take it? 11 A Yes. 12 Q Okay. And then the -- are you saying that the 13 security guards that worked underneath you are 14 contracted through a third-party company? 15 A Yes. 16 Q Okay. And so was there anybody else above you 17 besides Mr. Serrano? 18 A Dave Johnson. 19 Q Right. I mean between -- between you and 20 Mr. Serrano. 21 A No. 22 Q Okay. So it would go Dave Johnson, who's 23 basically in charge of the whole mall, like the 24 property manager? 25 A Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 A I worked at Miami Dade College as a public -- a 2 public safety director. 3 Q One second. I have a quick question, going back 4 to Brickell City Centre. Maybe I didn't hear you 5 correctly, but I thought your job title was director of 6 security. 7 A So, yes, but there's a director of the mall that 8 oversees me as a director of security. 9 Q Okay. Can you just break down for me like 10 the -- kind of the org chart of how that works. 11 A So the director of the mall is in charge of the 12 structure of the mall, any projects, as well as the 13 director of security, whoever that may be. So he's 14 basically an added layer. 15 Q And so where do you fit, if we have the director 16 of -- Dave Johnson is the director of mall security? 17 A He's the director of the entire mall, like the 18 property manager. 19 Q Okay. I see. And then where does Michael 20 Serrano fit in this hypothetical chart? 21 A He is -- he would be my supervisor. 22 Q And what's his title -- or what was his title? 23 A An account manager. 24 Q His title was account manager? 25 A Yes.</p>	<p style="text-align: right;">Page 29</p> <p>1 Q Then Michael Serrano, and then you, in the 2 context of security? 3 A Yes. 4 Q And your title was director of security? 5 A Yes. 6 Q How many directors -- other directors of 7 security were there? 8 A It was myself and two assistants. 9 Q Was anyone else let go as part of that incident 10 that you described? 11 A No. 12 Q Just you? 13 A Yes. 14 Q Okay. Okay. And you said you worked at Miami 15 Dade College? 16 A Yes. 17 Q Okay. When did you work there? 18 A In May of 2022 till January of 2023. 19 Q And what did you earn there? What was your 20 salary? 21 A About 60,000 a year. 22 Q Who was your supervisor? 23 A My supervisor was Nelson -- I don't know how to 24 pronounce his last name, but it starts with an 25 M-A-G-N-A, like Magana.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q That's fine. I'm sure the court reporter 2 prefers you spell it out -- 3 A Okay. 4 Q -- so it's easier. 5 And what was your job title? 6 A Public safety director. 7 Q And why did you leave Miami Dade College? 8 A For the opportunity to work at Brickell City 9 Centre, because the monetary salary was not enough for 10 me to pay my bills. 11 Q So you resigned? 12 A Yes. 13 Q Were you ever disciplined at Miami Dade College? 14 A No. 15 Q No write-ups? No verbal counselings? Nothing 16 like that? 17 A No. 18 Q Is there a reason you had a two-month break 19 between Miami Dade College and Brickell City Centre? 20 A Waiting for Brickell City Centre to approve 21 my -- my hiring. 22 Q So you resigned from Miami Dade College before 23 you were approved to work at Brickell City Centre? 24 A Yes, but I knew that I was going to get the job. 25 Q How did you know?</p>	<p style="text-align: right;">Page 32</p> <p>1 investigator, and whenever they had cases, they would 2 assign it to me, if I wanted to take them, or if they 3 had -- or if they needed several investigators. But 4 they had a lot of investigators that were senior to me, 5 so the jobs that I got were few, far, and between. 6 Q So from January 2021 until May of 2022, you 7 worked as a private investigator for GPS Security. Do 8 I have that right? 9 A Yes. 10 Q But you were not working full-time; is that 11 correct? 12 A I only worked whenever they had a case. 13 Q Okay. How many cases did you work on for them? 14 A A few. I don't know by the top of my head. 15 Q More than ten or less than ten? 16 A More than ten. 17 Q More than 50? 18 A I don't recall. 19 Q How were you paid? 20 A Through direct deposit. 21 Q I understand that. But were you paid as a -- 22 per job, per hour, per salary? Was it a salary? Like, 23 what was the way you were paid? 24 A Per hour. 25 Q And what was the rate of pay per hour?</p>
<p style="text-align: right;">Page 31</p> <p>1 A Because they had told me. It was just a matter 2 of getting everything through HR and submitting the 3 paperwork. It was a process, and they kept delaying my 4 start date. 5 Q Any idea why? 6 A I don't know. 7 Q Okay. And where did you work before Miami Dade 8 College? 9 A The Miami Beach Police Department. 10 Q Okay. And your employment at City of Miami 11 Beach ended January 2021, correct? 12 A That is correct. 13 Q Okay. So you didn't work anywhere or did you 14 work anywhere between January 2021 and May 2022? 15 A So I had, here and there sporadically, a private 16 investigator's job, but that wasn't a -- a fixed income 17 or a -- those jobs just came here and there whenever 18 they needed an investigator. 19 Q Who is "they"? 20 A When the company needed an investigator. 21 Q What company? 22 A GPS Security. 23 Q Okay. So you worked as a contractor for GPS 24 Security, or were you a W-2 employee? 25 A I believe a W-2 employee. I was a private</p>	<p style="text-align: right;">Page 33</p> <p>1 A Depending on what the client wanted to pay the 2 company. So between \$20 an hour to \$30 an hour. It 3 depends on how much the client wanted to pay. 4 Q Do you remember how much you earned from GPS 5 Security? 6 A I don't know. 7 Q Okay. Did you have benefits with them? 8 A No. 9 Q How about with Miami Dade College? Did you have 10 benefits? 11 A Yes. 12 Q What were the benefits? 13 A Health and dental. 14 Q Anything else? 15 A I don't remember now. 16 Q You don't remember if there was a 401(k) or 17 anything like that? 18 A 401(k), there was. 19 Q Did you contribute? 20 A I don't know. 21 Q Okay. 22 A I believe it was automatic, but I didn't look 23 into it. 24 Q And then how about with Brickell City Centre? 25 A Health and dental, and I believe 401(k).</p>

<p style="text-align: right;">Page 34</p> <p>1 Q Did you contribute to that?</p> <p>2 A Again, I think it's automatic. They</p> <p>3 automatically take it from your check.</p> <p>4 Q You think they automatically take a 401(k)</p> <p>5 contribution?</p> <p>6 A I think so.</p> <p>7 Q Okay.</p> <p>8 A I'm not a hundred percent sure.</p> <p>9 Q Would that be reflected in your paychecks, if</p> <p>10 they did or didn't?</p> <p>11 A It should. I don't know.</p> <p>12 Q How about with Opa-locka Police Department?</p> <p>13 What were the benefits there?</p> <p>14 A I didn't have any, because I was on probation.</p> <p>15 Q So no health, no dental, obviously no pension?</p> <p>16 A Correct.</p> <p>17 Q Okay. And so sitting here today, just going</p> <p>18 back so we can wrap this part up, you're currently</p> <p>19 unemployed, correct?</p> <p>20 A That is correct.</p> <p>21 Q When's the last time you went on a job</p> <p>22 interview?</p> <p>23 A About a week, two weeks ago.</p> <p>24 Q Where did you interview?</p> <p>25 A At the Florida Commission --</p>	<p style="text-align: right;">Page 36</p> <p>1 going off the record.</p> <p>2 (A break was taken from 9:35 a.m. to</p> <p>3 9:42 a.m.)</p> <p>4 THE VIDEOGRAPHER: The time is 9:42 a.m. We're</p> <p>5 back on the record.</p> <p>6 BY MR. ELKINS:</p> <p>7 Q Just a brief follow-up on Miami Dade College. I</p> <p>8 just want to confirm, you were never written up there?</p> <p>9 A No. Not from what I recall, no.</p> <p>10 Q And you never received any kind of counseling or</p> <p>11 anything?</p> <p>12 A No.</p> <p>13 Q And you didn't resign in lieu of termination?</p> <p>14 A No.</p> <p>15 Q Never had any disciplinary issues there?</p> <p>16 A No.</p> <p>17 Q Okay. Great.</p> <p>18 Okay. What was your first role at the City of</p> <p>19 Miami Beach?</p> <p>20 A I was a police officer.</p> <p>21 Q Okay. And when were you hired?</p> <p>22 A January of 2020 -- I'm sorry. January 2012.</p> <p>23 Q Okay. Do you remember who did your interview?</p> <p>24 A We did not have an interview.</p> <p>25 Q Okay. How did you get hired?</p>
<p style="text-align: right;">Page 35</p> <p>1 Q Okay.</p> <p>2 A -- which I'm in the hiring process. So I will</p> <p>3 be getting that -- that job, from what I was told.</p> <p>4 Q Who told you that?</p> <p>5 A The hiring director.</p> <p>6 Q Any idea when it starts?</p> <p>7 A I believe late in February.</p> <p>8 Q And what's the job title, again?</p> <p>9 A Investigator.</p> <p>10 Q And what's the rate of pay?</p> <p>11 A I believe it is 44,000 a year.</p> <p>12 Q Is that here in South Florida?</p> <p>13 A Yes.</p> <p>14 Q Any benefits?</p> <p>15 A Not until you pass probation.</p> <p>16 Q How long is that?</p> <p>17 A A year and a half.</p> <p>18 Q That's a long probationary period.</p> <p>19 A It's a private company.</p> <p>20 Q And should you pass the probationary period,</p> <p>21 what are the benefits then?</p> <p>22 A Health, life insurance, and I believe dental.</p> <p>23 MR. ELKINS: Okay. I have to use the restroom</p> <p>24 again, so let's take five.</p> <p>25 THE VIDEOGRAPHER: The time is 9:35 a.m. We're</p>	<p style="text-align: right;">Page 37</p> <p>1 A Through the background investigator.</p> <p>2 Q Okay. And what was your -- what was your</p> <p>3 first -- who was in your chain of command when you</p> <p>4 first started working there?</p> <p>5 A My first chain of command? I don't know. This</p> <p>6 was over ten years ago. I don't know.</p> <p>7 Q Okay. Were you eventually promoted?</p> <p>8 A Yes.</p> <p>9 Q When were you promoted?</p> <p>10 A In 2017.</p> <p>11 Q Okay. And what were you promoted to?</p> <p>12 A To sergeant.</p> <p>13 Q Who promoted you?</p> <p>14 A The City of Miami Beach.</p> <p>15 Q Obviously. Which person was in charge that --</p> <p>16 that promoted you?</p> <p>17 A So it's a test that you take. It's not up to</p> <p>18 any person.</p> <p>19 Q Who was the chief then?</p> <p>20 A The chief was Daniel Oates.</p> <p>21 Q Did anything happen with your promotion to</p> <p>22 sergeant?</p> <p>23 A Can you be specific.</p> <p>24 Q Were you able to successfully complete your</p> <p>25 probationary period as sergeant?</p>

<p style="text-align: right;">Page 38</p> <p>1 A I did complete my probationary period.</p> <p>2 Q Was there ever a grievance filed over that?</p> <p>3 A Yes, there was.</p> <p>4 Q What was that grievance about?</p> <p>5 A So it was a grievance regarding wrongful</p> <p>6 termination by the city.</p> <p>7 Q Okay. Can you be more specific.</p> <p>8 A Is there a specific question that you can ask</p> <p>9 me?</p> <p>10 Q Can you be more specific about the subject</p> <p>11 matter of your grievance regarding your probationary</p> <p>12 period as a sergeant.</p> <p>13 A So the grievance was because the chief at the</p> <p>14 time said it -- he had demoted me over performance</p> <p>15 issues. However, there was no documentation of any</p> <p>16 type of performance issues. In fact, all of my</p> <p>17 lieutenants said that I was passing my performance</p> <p>18 satisfactorily.</p> <p>19 So when the union brought this to Daniel Oates's</p> <p>20 attention, he switched his statement, or story, on why</p> <p>21 he was demoting me and said it was because I was a</p> <p>22 subject of an internal affairs investigation. And so</p> <p>23 the union said that there was another male officer who</p> <p>24 had just gotten promoted to sergeant that was also</p> <p>25 under an internal affairs investigation and he was not</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Okay. One second. My pen's not working.</p> <p>2 Okay. What was the basis of your EEOC charge?</p> <p>3 A The basis of the EEOC charge is the fact that --</p> <p>4 again, the chief at the time said that he was demoting</p> <p>5 me because I did not meet probation due to performance</p> <p>6 issues. Mind you, he demoted me shy of a few days of</p> <p>7 me passing my probation. And my lieutenants that I was</p> <p>8 working for at the time stated that there was no</p> <p>9 performance issues and that I was, indeed, meeting</p> <p>10 performance standards and that I was going to</p> <p>11 successfully pass my probation.</p> <p>12 So then he switched the reasoning for why he was</p> <p>13 demoting me, to the fact that there was an open</p> <p>14 internal affairs case at the time over a call for</p> <p>15 service that occurred in my shift involving other</p> <p>16 officers, and I was the sergeant during that incident.</p> <p>17 And so he said it was because there was an open</p> <p>18 internal affairs investigation. However, there was a</p> <p>19 male sergeant who was in the same position as me, where</p> <p>20 he was under an internal affairs investigation, the</p> <p>21 case was being reviewed by the state attorney's office,</p> <p>22 and he was not demoted. So I believe, and the union</p> <p>23 believed, which they filed a grievance, that I was</p> <p>24 retaliated based on my sex and based on the fact that I</p> <p>25 was a female.</p>
<p style="text-align: right;">Page 39</p> <p>1 demoted. So the chief's decision to demote me was</p> <p>2 unjust, and he didn't have a reason to demote me.</p> <p>3 Q What was the result of that grievance?</p> <p>4 A I settled with the city to get my promotion</p> <p>5 back, with seniority and no back pay.</p> <p>6 Q Did you also file an EEOC charge?</p> <p>7 A I did.</p> <p>8 Q Okay. So I'm going to show you what I'm going</p> <p>9 to mark --</p> <p>10 MR. ELKINS: Can everybody see the document?</p> <p>11 MR. DARAGJATI: Yeah.</p> <p>12 MR. ELKINS: That's a success.</p> <p>13 BY MR. ELKINS:</p> <p>14 Q I'm going to show you what I'm going to mark as</p> <p>15 Exhibit 1.</p> <p>16 MR. ELKINS: I'll -- Madam Court Reporter, I'll</p> <p>17 just either put the documents in the -- well, I'll</p> <p>18 email them to you, since you don't have the chat.</p> <p>19 (Defendant's Exhibit 1 was marked for</p> <p>20 identification.)</p> <p>21 BY MR. ELKINS:</p> <p>22 Q Have you ever seen this document before?</p> <p>23 A Yes, I have.</p> <p>24 Q What is this document?</p> <p>25 A It's my EEOC complaint.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q So you believe that Chief Oates discriminated</p> <p>2 against you on the basis of your gender?</p> <p>3 A That is correct.</p> <p>4 Q Okay. And do you still believe that today?</p> <p>5 A I still believe that today.</p> <p>6 Q Okay. And so I'm going to show you what I'm</p> <p>7 going to mark as Exhibit 2.</p> <p>8 MR. ELKINS: Can everybody see that?</p> <p>9 (Defendant's Exhibit 2 was marked for</p> <p>10 identification.)</p> <p>11 BY MR. ELKINS:</p> <p>12 Q Have you seen this document before?</p> <p>13 Sorry. I didn't mean to keep scrolling.</p> <p>14 A Yes.</p> <p>15 Q Okay. What is this document?</p> <p>16 A The settlement agreement for 2019, I believe.</p> <p>17 I -- I don't know which document this is.</p> <p>18 Q Well, it's for your -- it says union grievance</p> <p>19 number 2018-11.</p> <p>20 A Okay.</p> <p>21 Q That was the grievance, I believe, that you</p> <p>22 filed relating to your promotional status as a</p> <p>23 sergeant --</p> <p>24 A Okay.</p> <p>25 Q -- correct?</p>

<p style="text-align: right;">Page 42</p> <p>1 And then it also talks about your EEOC charge, 2 EEOC charge number 510-2018-06495. Do you see that? 3 A Yes. 4 Q Okay. And if we look at that charge, do the 5 charge numbers match? 6 A Yes. 7 Q Okay. So this is the settlement agreement for 8 both your union grievance and the EEOC charge, correct? 9 A Yes. 10 Q Okay. And in this, I believe -- correct me if 11 I'm wrong -- you agreed to accept a 20-hour soft 12 suspension as discipline for the IA case, correct? 13 A That is correct. 14 Q And you were allowed to return to work as a 15 sergeant, with an effective start date of August 12, 16 2019? 17 A That is correct. 18 Q And you got retroactive pay, correct? 19 A I didn't -- I did not get retro pay. I got -- 20 Q It says here -- 21 A I'm sorry. I thought it was back pay. I got -- 22 my rate went back to sergeant, and the only retroactive 23 pay that I got was -- after I signed the -- this 24 agreement, there were a few days where I still hadn't 25 been put back to sergeant, so they retroacted me for</p>	<p style="text-align: right;">Page 44</p> <p>1 all I wanted to do was just go back to being a 2 sergeant. I didn't agree with the terms of it, but the 3 union said it was the best way to resolve this. And by 4 that, me going back to being reinstated as a sergeant, 5 I didn't want to fight it anymore. 6 Q When you say you didn't agree with the terms, 7 what terms did you not agree with? 8 A Well, I didn't think it was fair for -- 9 Q Do you want me to put the document back up? 10 A Yes, please. 11 Q I'm sorry. I don't want to ask you questions 12 about a document that you don't have in front of you. 13 Give me one second. 14 Can you see it? 15 A No. 16 Q You can't? 17 A No. 18 MR. DARAGJATI: I don't see it either. 19 MR. ELKINS: Really? 20 MR. DARAGJATI: No. 21 MR. ELKINS: Okay. Hold on. 22 BY MR. ELKINS: 23 Q Oh, okay. It says it's loading. 24 How about now? 25 A No.</p>
<p style="text-align: right;">Page 43</p> <p>1 those days -- 2 Q Right. 3 A -- not for the time that I was out as a 4 sergeant. 5 Q And then you agreed to additional probationary 6 time of six months? 7 A Yes. 8 Q And you had to attend FTO for one month? 9 A Yes. 10 Q And you were assigned a field training officer, 11 correct? 12 A Yes. 13 Q Okay. And in exchange for that, you also 14 released your claims against the city, right? 15 A Yes. 16 Q Okay. And so, of course, you didn't file a 17 lawsuit on either this EEOC charge or the grievance, 18 obviously? 19 A That is correct. 20 Q Okay. 21 A Because at the end of the day, what was most 22 important to me was to be back as a sergeant, that I 23 worked so hard to do, and that I put all my dedication, 24 and it was wrongfully taken from me during that time. 25 And I agreed to settle this agreement because</p>	<p style="text-align: right;">Page 45</p> <p>1 MR. DARAGJATI: We see it now. 2 THE WITNESS: I don't see it. 3 Now I see it. 4 BY MR. ELKINS: 5 Q It says that the internet connection is 6 unstable, but we should be okay now. Can you see it -- 7 A Yes. 8 Q -- Ms. -- and I'll call you Ms. Salabarria. 9 A That's fine. 10 Q Okay. All right. What terms did you not agree 11 with? 12 A So I did not agree with receiving a soft 13 suspension for that discipline IA case, because the 14 officers involved in that case didn't receive any 15 discipline with that case. I believe that it was, 16 again, retaliatory against me and they used the fact 17 that I was -- I filed the EEOC and I was getting my 18 stripes back, getting my promotion back. That was 19 their way of justifying why they had demoted me. 20 Q Who is "they"? 21 A The city. 22 Q What other terms -- 23 A Because -- I'm sorry. 24 Q Go ahead. No, no, no. My apologies. 25 A They sent this case to the state attorney's</p>

<p style="text-align: right;">Page 46</p> <p>1 office, and the state attorney's office cleared any 2 type of wrongdoing. And the only person that received 3 discipline with this case was me, again the only 4 female. 5 Q What other terms do you not agree with -- or did 6 you not agree with? 7 A Well, since I had passed my probationary period 8 and I was going to pass it -- there was no lieutenants 9 that said I was not going to pass my probationary 10 period. I was, again, put on probation for six months, 11 and I had to go through the FTO program for a month, 12 again something that they have not done to anybody else 13 but me. 14 Q Okay. So you didn't agree with the FTO training 15 part? 16 A No. 17 Q Okay. What other terms did you not agree with? 18 If you need me to scroll, just let me know. 19 A No. That's it. I basically settled with the 20 city because what was most important to me was getting 21 my -- my rank back, that I worked very hard for. And I 22 didn't want to continue to endure to fight the terms of 23 this agreement, and so I settled. But what happened 24 did happen and it's -- it's something that I 25 experienced and it's my story, and I know exactly what</p>	<p style="text-align: right;">Page 48</p> <p>1 asking you if you were able to, if you could have taken 2 advantage of the full grievance process in the 3 collective bargaining agreement. Let me ask it another 4 way. Were you somehow prevented from taking advantage 5 of the grievance process? 6 A No, but when I spoke to the -- to the union 7 about this incident, about me not agreeing to these 8 terms, they said it was the only way and that that's 9 the last offer that the city was going to give. 10 And, again, I believe I answered this question 11 already. That's what I did at that time, because what 12 was most important to me was getting back to work and 13 getting back to my rank. 14 Q Did the union tell you they wouldn't support a 15 grievance going forward? 16 A I don't know exactly what they told me at that 17 time, since it was a while ago, but they had mentioned 18 that it was the best thing for me to do at the moment, 19 if all I wanted back was just my promotion. 20 Q And you weren't forced to sign this, were you? 21 A No. 22 Q And that's -- I'm showing you page 3. That's 23 your signature, right? 24 A Yes. 25 Q Okay. So even though you didn't agree with the</p>
<p style="text-align: right;">Page 47</p> <p>1 happened with this case and how I was mistreated during 2 this case. 3 Q Do you routinely sign agreements with terms that 4 you don't agree to? Is that common for you? 5 A It's -- I didn't agree with it, like I said. 6 And like I said, I wanted for this to go away, in the 7 sense of I just wanted to get my promotion back, my 8 rank back, which was the most important thing to me. 9 And I felt like I had to make this sacrifice, even 10 though I didn't believe that I did anything wrong. I 11 did it because it was the only way for me to get my 12 promotion back, even though I didn't agree with it. 13 Q You understand, though, you obviously could have 14 fought the grievance through the grievance process 15 that's in the collective bargaining agreement, right? 16 A Yes. 17 Q You could've gone to arbitration, right? 18 A Yes. I believe those are hypothetical 19 questions. And at the time, I did what I felt was 20 right, and I did what I felt I needed to do, because I 21 had -- I felt like I had no other avenue. And the 22 union had spoken to the city, and they came up with 23 this offer. And so that's why I did what I did at that 24 time. 25 Q Respectfully, it's not a hypothetical. I'm</p>	<p style="text-align: right;">Page 49</p> <p>1 terms, you signed it, understanding you could've fought 2 the grievance going forward? 3 A I understand. 4 Q Okay. And you certainly could've let the EEOC 5 charge play out and file a lawsuit against the city, 6 based on those allegations, couldn't you? 7 A Again, I believe that's a hypothetical question. 8 Q That's okay. You have to answer those. 9 A Okay. I -- 10 Q Let me -- let me clarify for you, which I 11 probably should have clarified at the beginning. You 12 basically have to answer my questions, unless your 13 lawyer instructs you not to answer based upon some sort 14 of privilege, like the attorney-client privilege. 15 Other than that, I have wide latitude to ask you 16 questions, which includes hypotheticals. Okay? 17 A Okay. So what was your question, again? 18 Q You could have fought the grievance through 19 arbitration, and you could have let the EEOC charge 20 play out and then filed a lawsuit on that basis, 21 correct? 22 A That is correct. 23 Q Okay. But you voluntarily chose to sign this, 24 correct? 25 A Yes.</p>

<p style="text-align: right;">Page 50</p> <p>1 Q Okay.</p> <p>2 A Because like I said, at the time, I felt like it</p> <p>3 was the best thing for my person and for my career</p> <p>4 to settle with the city, even though I didn't agree</p> <p>5 with the terms.</p> <p>6 Q Okay.</p> <p>7 A And like I said, what I -- what was most</p> <p>8 important to me was just getting back to work. Money</p> <p>9 wasn't important to me. What was important to me</p> <p>10 was -- was being reinstated to what I worked hard for</p> <p>11 and what I earned myself through my dedication.</p> <p>12 Q When did you first meet Steven Cosner?</p> <p>13 A In 2014.</p> <p>14 Q How did you meet him?</p> <p>15 A I'm sorry. I believe in 2012, when I started.</p> <p>16 Q Okay. What was the nature of your relationship</p> <p>17 with Mr. Cosner?</p> <p>18 A Which day are you talking about? 2012 or 2014?</p> <p>19 Q Walk me from the beginning, 2012 through '14.</p> <p>20 A So, in 2012, I had just started, and he was part</p> <p>21 of the FTO postacademy scenarios. So I obviously knew</p> <p>22 who he was because he participated in the scenarios,</p> <p>23 but that was the extent of me knowing him back in 2012,</p> <p>24 up until -- in 2014, where I had to -- I'm sorry --</p> <p>25 where I bid for my shift and I ended up working on</p>	<p style="text-align: right;">Page 52</p> <p>1 Q Did he ever harass you in any way?</p> <p>2 A Yes.</p> <p>3 Q Okay. How and when?</p> <p>4 A So, in 2014, at the time, I was working</p> <p>5 midnights and I was going through an unfortunate</p> <p>6 incident where there was a male sergeant, a senior male</p> <p>7 sergeant, that was stalking me within the city and</p> <p>8 outside of the city. This male sergeant was</p> <p>9 substantiated in his actions of what he was doing to me</p> <p>10 while he was harassing me, and he was subsequently told</p> <p>11 to resign or he would be terminated. I was going</p> <p>12 through that at the moment while I was on the shift and</p> <p>13 squad with Steven Cosner.</p> <p>14 At the time, he, Steven Cosner, had shown</p> <p>15 interest in me romantically, and I had told him that I</p> <p>16 didn't want any type of romantic relationship with him.</p> <p>17 He provided this grotesque greeting card to me that was</p> <p>18 unwelcomed and unwanted, and I confided in other</p> <p>19 individuals in my squad, as well as veteran officers,</p> <p>20 about his actions. And they had told me that since I</p> <p>21 was a young officer in the police department -- I was</p> <p>22 22 years old when this happened. Cosner was in his</p> <p>23 40s. He had a lot of tenure in the police department,</p> <p>24 and a lot of influence, because he had been there for a</p> <p>25 long time. So they told me to -- not to cut off my</p>
<p style="text-align: right;">Page 51</p> <p>1 midnights with a senior squad that included Steven</p> <p>2 Cosner.</p> <p>3 Q Okay. And what was the general nature of your</p> <p>4 relationship? Was it friendly? Was it romantic? Was</p> <p>5 it professional?</p> <p>6 A It was professional and it was friendship.</p> <p>7 Q Okay.</p> <p>8 A Again, we worked together in the same squad. I</p> <p>9 tried to build a rapport with all of my squad members,</p> <p>10 and I tried to maintain a good working relationship</p> <p>11 with everybody that was on my squad. And when you work</p> <p>12 with somebody -- I'm sorry. When you work with a squad</p> <p>13 of people weekly, for hours, you start to build that</p> <p>14 rapport and that acquaintance, and you become friends</p> <p>15 with each other.</p> <p>16 Q Was it anything ever more than friendship?</p> <p>17 A No.</p> <p>18 Q Did you ever have sex with Mr. Cosner?</p> <p>19 A No.</p> <p>20 Q So if he testifies that you guys did have sex on</p> <p>21 multiple occasions, he's lying?</p> <p>22 A Yes.</p> <p>23 Q Okay. And you never had any romantic</p> <p>24 relationship with him whatsoever?</p> <p>25 A No.</p>	<p style="text-align: right;">Page 53</p> <p>1 friendship with him abruptly, because he's the type of</p> <p>2 person that's vindictive in his ways and he's known for</p> <p>3 that. And since I had already been going through this</p> <p>4 issue with the sergeant, where he had stalked me, I</p> <p>5 didn't want to again bring up another incident that was</p> <p>6 occurring with another male officer. So I kept him at</p> <p>7 arm's length and I tried to maintain a friendship with</p> <p>8 him. I told him that his advances were unwarranted and</p> <p>9 I didn't want anything to do with him and -- but I told</p> <p>10 him that we could maintain a friendship. Because,</p> <p>11 again, I was scared. I was 22 years old. I had just</p> <p>12 passed my probation. I had just started, and the last</p> <p>13 thing that I wanted to do was continue to bring up</p> <p>14 complaints of sexual harassment. And all I wanted was</p> <p>15 for that to stop.</p> <p>16 So, yes, I did maintain a friendship with him,</p> <p>17 until he crossed the line and couldn't take no for an</p> <p>18 answer. And when I finally told him, Listen, I am</p> <p>19 dating somebody else, I'm not welcoming your advances,</p> <p>20 he didn't take it well and our friendship ended</p> <p>21 subsequent to that. And we never spoke again, for</p> <p>22 years later. We would see each other in the hallway,</p> <p>23 and he would not speak to me, he would not acknowledge</p> <p>24 me, he would not look at me. And I believe he carried</p> <p>25 that vendetta, that animosity, that -- for me rejecting</p>

<p style="text-align: right;">Page 54</p> <p>1 him back in 2014, that culminated to the incident that 2 occurred in 2021 -- I'm sorry -- yes, in 2020. 3 Q December of 2020? 4 A December of 2020. 5 Q Late December of 2020? 6 A Yes. 7 Q Okay. So there was a lot there, so I'm going to 8 go back and go through it a little bit. 9 First of all, I just want to make sure I 10 understand. You believe that Cosner was angry at you 11 six, almost seven years later, and -- 12 A Yes. 13 Q Hold on. 14 A I'm sorry. 15 Q That's okay. 16 -- and that that's -- you're referring to the 17 allegation of officer misconduct that he wrote about 18 you in December 2020. You believe that that is due to 19 you rejecting him in 2014? 20 A Absolutely. 21 Q Do you have any evidence of that? 22 A I don't have any evidence of that, but I can go 23 over what I believe happened and his actions towards 24 me, and the fact that, like you said, all these years, 25 he would purposefully ignore me. When he became a</p>	<p style="text-align: right;">Page 56</p> <p>1 involved a DUI and that involved a use of force. 2 Q And this is 2017ish? 3 A '17ish? Yes. Either '17ish or '18. I don't 4 recall. 5 Q But you said it -- you said it was -- you were a 6 new sergeant. So I believe you were promoted to 7 sergeant in '17. 8 A Yes. Yes. 9 Q One at a time. 10 A So he asked me to approve that A form, and I 11 told him I was not going to approve that A form, 12 because it involved a DUI that happened on his shift 13 with a use of force. And per our policies, we do not 14 approve other sergeant's A forms that include uses of 15 force, unless directed to by a lieutenant for exigent 16 circumstances or any directives that they would give 17 you. 18 But I told him that I was not going to sign that 19 A form, I was not working when that A form was written, 20 when that incident occurred, and when that use of force 21 occurred. And he was upset with me and abruptly 22 changed to the other -- to the main channel. I believe 23 there were some words exchanged, in the sense of him 24 saying, Well, you're a sergeant, you can approve it. I 25 said, With all due respect, I'm not going to approve</p>
<p style="text-align: right;">Page 55</p> <p>1 lieutenant, I passed him in the hallway. I was a 2 sergeant; he was a lieutenant. I said "good evening." 3 He ignored me. And I can tell that that animosity was 4 still there. He sat right behind me in the sergeant's 5 office, never said a word to me, would ignore me, would 6 not speak to me. And that is not normal for peers to 7 be acting that way. 8 Again, after I told him I did not want to have a 9 relationship with him, he did not speak to me ever 10 again. He was upset. And like I said, I was there, I 11 lived it, I know what happened, and I experienced it. 12 Q And I want to make sure I go back and unpack a 13 lot of what you talked about earlier. But between 2014 14 and December of 2020, besides ignoring you, did he ever 15 do anything else to you? 16 A Yes. 17 Q What did he do? 18 A There was an incident where he was working -- we 19 were both sergeants at the time, and there was an 20 incident where he had a -- he was working midnights and 21 I was working day shift. I was an incoming sergeant, 22 and he was an outgoing sergeant. So he raised me on 23 the radio to go over to channel 13, which is a 24 supervisor channel. And in that channel, he asked me 25 to approve an A form that he had not approved yet, that</p>	<p style="text-align: right;">Page 57</p> <p>1 that A form, which involved a serious crime of a DUI 2 with injuries and with a use of force. And he was 3 upset by that. 4 Q Did he write you up? 5 A We were both sergeants, so, no, he did not write 6 me up. And I was not insubordinate to him, and he was 7 not insubordinate to me. We're peers at this point. 8 But he asked me if I can approve this A form. And the 9 liability that that A form entails, with that use of 10 force, I was not going to approve that for him. 11 Q Did you file a complaint against him? 12 A No. 13 Q So I asked you, like, what other things did he 14 do to you from 2014, before the incident in 15 December 2020, that demonstrated to you that he was 16 holding a grudge or angry at you for rejecting him, 17 besides ignoring you, and you're telling me that he 18 asked you to fill out an A form that you -- or approve 19 an A form that you believe you should not have been 20 approving, correct? 21 A That is correct. 22 Q Okay. 23 A But his tone and the way that he spoke to me 24 over the radio was inappropriate and was in haste, and 25 I can tell that he was angry. Again, I was there and I</p>

<p style="text-align: right;">Page 58</p> <p>1 lived through that, and I know exactly what happened. 2 At that point, we were both sergeants. He had no 3 authority over me. And the one and only day that he 4 ever has authority over me is when he became a 5 lieutenant, and the one and only day that I worked for 6 him, these so-called allegations are made by him. 7 Q And you believe that in 2017, his request for 8 you to approve this form was because of his anger from 9 your rejection in 2014, or your supposed rejection? 10 A No. His anger was, again, by me not wanting to 11 approve this A form, but he was overly angry and I can 12 tell. And since we had not spoken to each other since 13 2014 -- and, again, every time we see each other in the 14 hallway, every time he sits next to me, he ignores me 15 and he does not speak to me. That is not normal for 16 your peers to be doing to you. So, yes, I believe the 17 way that he took that rejection, he continued to hold 18 that grudge and that animosity towards me. 19 Q Okay. Going backwards from your earlier 20 testimony, when we were talking about how you got to 21 know Lieutenant Cosner, then Sergeant Cosner, I guess, 22 in 2014 you said there was a male sergeant stalking 23 you? 24 A Yes. 25 Q Who was that?</p>	<p style="text-align: right;">Page 60</p> <p>1 block away or be in the near vicinity. 2 Q Okay. And you had spoken to Cosner about this? 3 This was sort of how the two of you became friendly, 4 through communicating about this? 5 A No. 6 Q I thought you testified earlier that while you 7 were going through this is when you first started 8 becoming friendly with Lieutenant Cosner. Did I not 9 hear that correctly? 10 A That is not correct. 11 Q Okay. Can you clarify that, then. 12 A I said that I was working in his squad while 13 this incident had occurred, while I was going through 14 this incident. I was working with him and other male 15 officers, senior officers, that had a lot of tenure 16 over me, on this midnight shift. And I was going 17 through that incident while I was working on that 18 squad. 19 Q Got it. 20 Were you and Cosner good friends? 21 A We were good friends. 22 Q Did you socialize outside of work? 23 A No. 24 Q Did he ever meet your family? 25 A No.</p>
<p style="text-align: right;">Page 59</p> <p>1 A Albert Estrevez. 2 Q And you made a complaint about that? 3 A Yes, I did. 4 Q And he was asked to resign? 5 A Yes. His actions were substantiated. They 6 found evidence of him doing so, of him stalking me off 7 and on duty. 8 Q And he was asked to resign for that? 9 A And they gave him the option to resign or he 10 would be terminated. 11 Q And did he resign? 12 A And he resigned. 13 Q Okay. 14 A And the only reason why I even found out that he 15 was stalking me was because a neighbor in my 16 neighborhood told me that there was a Miami Beach 17 supervisor vehicle that was continuously passing 18 through my neighborhood, in front of my house, parking 19 a block from my house, parking close to my house, at 20 odd hours of the night, on multiple occasions, on 21 multiple instances. And I brought that up to my chain 22 of command, and they investigated it and they found an 23 egregious number of times where he was stalking me at 24 my house, and while on duty as well. He would 25 follow -- whatever calls that I had, he would be like a</p>	<p style="text-align: right;">Page 61</p> <p>1 Q Okay. And you never went out with him for a 2 drink or to dinner or anything like that? 3 A No. 4 Q You never went to his house? 5 A No. 6 Q He never went to your house? 7 A No. 8 Q He never met anyone in your family? 9 A No. 10 Q Okay. So I'm going to show what I'm going to 11 mark as Exhibit 3. Let me know when you can see it. 12 A I can see it. 13 (Defendant's Exhibit 3 was marked for 14 identification.) 15 BY MR. ELKINS: 16 Q Okay. These are screenshots of Lieutenant 17 Cosner's Instagram -- 18 A Okay. 19 Q -- from 2014 and '15, I believe. Am I right 20 that your -- in this first one, your Instagram, I 21 guess, at the time, was forever_camelot; is that right? 22 A That is correct. 23 Q Okay. And so you commented on his Instagram 24 here, correct? 25 A That is correct.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q Okay. And then the same thing for page 2, Bates</p> <p>2 number 001354. That's you again, right,</p> <p>3 forever_camelot?</p> <p>4 A Yes.</p> <p>5 Q Okay. And I think this is from December 25th,</p> <p>6 2013, I think at the bottom, right?</p> <p>7 A Okay.</p> <p>8 Q All right. And then, here, there's somebody</p> <p>9 named luluu_74. Do you know who that is?</p> <p>10 A Yes.</p> <p>11 Q Who is that?</p> <p>12 A That is my mother.</p> <p>13 Q And so, here, your mother is liking his</p> <p>14 Instagram?</p> <p>15 A Yes.</p> <p>16 Q Any idea why?</p> <p>17 A So my mother works at the Hialeah Police</p> <p>18 Department. She's a clerk. And she is very much into</p> <p>19 the brotherhood of police work and befriending as many</p> <p>20 police officers, kind of like a community, a</p> <p>21 brotherhood.</p> <p>22 So, usually, on Facebook, it says things like</p> <p>23 people that you may know and it says -- usually, it</p> <p>24 says their occupation or they have mutual friends in</p> <p>25 common. And it's not uncommon at all for you to add</p>	<p style="text-align: right;">Page 64</p> <p>1 A Yes.</p> <p>2 Q Okay. Let me go back.</p> <p>3 Okay. And I think page 7 is your mom again. Do</p> <p>4 you see that?</p> <p>5 A That's the same one that you --</p> <p>6 Q Right.</p> <p>7 A -- pointed out multiple times.</p> <p>8 Q Okay.</p> <p>9 A It's not more than -- the one that you've shown</p> <p>10 me has been the one that you've said multiple times.</p> <p>11 Q Correct.</p> <p>12 And then page 9, it looks like it's your mom</p> <p>13 liking again different posts?</p> <p>14 A Yes.</p> <p>15 Q This looks like a picture of Lieutenant Cosner,</p> <p>16 I'm going to guess with his daughter, maybe.</p> <p>17 A Okay.</p> <p>18 Q And then the same thing, page 10, your mom</p> <p>19 liking this again?</p> <p>20 A Okay.</p> <p>21 Q Another like.</p> <p>22 Page 11, your mom again, correct?</p> <p>23 A Okay.</p> <p>24 Q And then page 12 is you liking his Facebook post</p> <p>25 from June of 2015?</p>
<p style="text-align: right;">Page 63</p> <p>1 persons that you think you may know or think that -- in</p> <p>2 her case, that are police officers. And she has</p> <p>3 multiple people from Miami Beach on her friends list,</p> <p>4 and apparently, Cosner is one of them. But it's not</p> <p>5 uncommon at all. It's a common practice. It's</p> <p>6 something that you do in social media, to network, to</p> <p>7 connect. And my mother did befriend not only him, but</p> <p>8 multiple people from Miami Beach.</p> <p>9 Q Okay. So we'll go to the next one. Same thing</p> <p>10 here. It looks like your mother is liking that post,</p> <p>11 too, page 4?</p> <p>12 A (No verbal response).</p> <p>13 Q Same thing, page 5?</p> <p>14 A I can't see.</p> <p>15 Q Can you not see it?</p> <p>16 A I can see, but it's not changing pages.</p> <p>17 Q I think it might be multiple pages of the same</p> <p>18 thing.</p> <p>19 A Okay.</p> <p>20 Q Hold on. Yeah, you're right, it's not changing</p> <p>21 pages. Sorry. I think the internet connection here is</p> <p>22 a little unstable.</p> <p>23 Okay. Here we go. So page 8, this is you</p> <p>24 commenting on Cosner's Instagram post from June 20th,</p> <p>25 2014; is that correct?</p>	<p style="text-align: right;">Page 65</p> <p>1 A Okay.</p> <p>2 Q So is this after he -- before or after he, like,</p> <p>3 propositioned you?</p> <p>4 A It was before and after.</p> <p>5 Q Before and after?</p> <p>6 A Yes.</p> <p>7 Q So even after he attempted to take the</p> <p>8 relationship past friends and you rejected him, you</p> <p>9 were still liking his social media?</p> <p>10 A Yes. So like I stated, I had spoken to several</p> <p>11 of my colleagues, veteran officers, veteran female</p> <p>12 officers, and at the time, you know, a retired sergeant</p> <p>13 who worked in this -- in the squad and in this shift.</p> <p>14 And the advice that I was given -- I was a 22-year-old</p> <p>15 female at the time, and the advice that I was given was</p> <p>16 go along to get along, in the sense of don't abruptly</p> <p>17 end any type of friendships, you've already been</p> <p>18 through a lot with the case that -- of the officer</p> <p>19 stalking you, you don't want to, you know -- it's not</p> <p>20 going to be healthy for your -- for your career if you</p> <p>21 make another complaint, just continue to be friends</p> <p>22 with your squad mates, get along politically, try to</p> <p>23 maintain these friendships so that you don't have</p> <p>24 issues moving forward, especially with Cosner, who has</p> <p>25 been known to be vindictive and hostile towards certain</p>

<p style="text-align: right;">Page 66</p> <p>1 people that he doesn't like.</p> <p>2 And since he had a lot of influence and a lot of</p> <p>3 tenure in the police department, I was scared and</p> <p>4 worried that if I had cut off my friendship with him,</p> <p>5 that he was going to make my career, while I'm working,</p> <p>6 difficult, because he had a lot of influence in my</p> <p>7 squad. And I was trying to maintain a working</p> <p>8 relationship with everyone. But I had told him</p> <p>9 multiple times that I wasn't interested in him. And it</p> <p>10 culminated to the point where I had to tell him, That</p> <p>11 is it, our friendship is done, you have crossed the</p> <p>12 line multiple times, I gave you multiple chances, and</p> <p>13 now this friendship is done and it's over. And we had</p> <p>14 not spoken ever since.</p> <p>15 Q And he ignored you, for the most part, for the</p> <p>16 bulk of almost seven years, correct?</p> <p>17 A Yes.</p> <p>18 Q So he didn't -- he didn't do anything to you in</p> <p>19 the seven-year period, correct?</p> <p>20 A Well, he couldn't do anything to me, because we</p> <p>21 were both the same rank.</p> <p>22 Q Well, if he couldn't do anything to you, then</p> <p>23 why were you worried about him being vindictive?</p> <p>24 A Because we were working in the same squad and he</p> <p>25 had a lot of influence with our sergeant and he had a</p>	<p style="text-align: right;">Page 68</p> <p>1 he was ultimately told either quit or you're going to</p> <p>2 be fired. So what do you mean by more retaliation?</p> <p>3 A That is correct. So Estrevez worked on the</p> <p>4 midnight squad, and now -- and he had been working</p> <p>5 there for a long time, 20-plus years. And like I said,</p> <p>6 he had a lot of influence within the police department.</p> <p>7 He had been there a long time. And because of his</p> <p>8 termination, a lot of his friends and followers were</p> <p>9 very upset by that. And I started to experience</p> <p>10 incidents that were occurring to me, where my personal</p> <p>11 vehicle's tires were slashed, my gas tank was filled</p> <p>12 with salt water and sand.</p> <p>13 And I made a complaint to internal affairs, and</p> <p>14 they said they couldn't substantiate because they</p> <p>15 didn't have the evidence, but they moved me to -- off</p> <p>16 the road, to protect me from any further retaliation.</p> <p>17 And so they put me to work in the red-light camera,</p> <p>18 under -- under accident investigations unit.</p> <p>19 Q And when was this, what year?</p> <p>20 A That was in 2014, 2015, around that time.</p> <p>21 Q Did you make a complaint about the tires being</p> <p>22 slashed also?</p> <p>23 A Yes, I did.</p> <p>24 Q So was it one complaint, about both the tires</p> <p>25 and the gas tank?</p>
<p style="text-align: right;">Page 67</p> <p>1 lot of influence within that squad and within the</p> <p>2 department.</p> <p>3 And I had just gone through a very traumatizing</p> <p>4 incident with this sergeant who was stalking me, and</p> <p>5 the last thing that I wanted was another issue, another</p> <p>6 complaint, when all I wanted was just to go and do my</p> <p>7 job and be left alone. And sometimes you have to do</p> <p>8 things to survive, like maintain friendships that you</p> <p>9 don't want, because you're trying to survive, you're</p> <p>10 trying to maintain your livelihood. And working and</p> <p>11 being employed was my livelihood.</p> <p>12 And I was petrified and worried and scared that</p> <p>13 if I continued to make complaints over these advances,</p> <p>14 that it was going to culminate to me getting more</p> <p>15 retaliation or me being in a position where I wasn't</p> <p>16 going to be liked in the police department, I wasn't</p> <p>17 going to be successful in the police department,</p> <p>18 because a lot of these people had influence with</p> <p>19 command staff, with sergeants. And my peers told me</p> <p>20 just try to lay low, don't cut off friendships</p> <p>21 abruptly, and just maintain what you're doing now.</p> <p>22 Q When you say more retaliation, what retaliation</p> <p>23 were you experiencing back then? Because as I</p> <p>24 understand it -- correct me if I'm wrong -- you made a</p> <p>25 complaint about Mr. Estrevez, which was sustained and</p>	<p style="text-align: right;">Page 69</p> <p>1 A Yes. I couldn't take it anymore. I tried to</p> <p>2 go -- I basically -- like I said, I didn't want to</p> <p>3 continue to bring up things that was occurring to me,</p> <p>4 but it just emulated to a multiple of things and now</p> <p>5 it's affecting my personal vehicle, it's affecting my</p> <p>6 health, it's affecting my mental health. And I got to</p> <p>7 a point where I had to go and tell them, Hey, this is</p> <p>8 what's going on.</p> <p>9 And so my vehicle was towed from the police</p> <p>10 station after that incident happened, and a sergeant at</p> <p>11 the time had to give me a ride home. So I got to the</p> <p>12 point where I brought this up to internal affairs.</p> <p>13 They reviewed it. They said they couldn't find any</p> <p>14 evidence, because there was no cameras in the garage at</p> <p>15 the time. And their fix to my complaints were to put</p> <p>16 me in the red-light camera and assign me there as an</p> <p>17 AIU investigator. And I was there for about three,</p> <p>18 almost four years.</p> <p>19 Q So you made a complaint, and even though the</p> <p>20 city was not able to determine who either, you know,</p> <p>21 slashed your tires or filled your gas tank, they took</p> <p>22 action to protect you?</p> <p>23 A Yes.</p> <p>24 Q Okay. Who were the veteran officers that you</p> <p>25 referenced that you spoke to about Cosner?</p>

<p style="text-align: right;">Page 70</p> <p>1 A So I don't remember. At the time, I do know 2 that there were veterans officers, who had retired 3 shortly after that. There's been multiple officers 4 that had retired after that. But during that time, it 5 was senior officers from that -- from the midnight 6 squad and from my squad. And I can't tell you now who 7 was in my squad during that time. 8 Q Do you remember their ranks? 9 A Officers and a sergeant. 10 Q Do you remember the sergeant's name? 11 A Yes. 12 Q What was the name of the sergeant? 13 A His last name is Rojo. 14 Q Rojo? 15 A Yes. 16 Q So you remember, it sounds like, a lot of 17 details relating to Cosner, relating to the gas tank, 18 relating to the tires being slashed, relating to the 19 card that he gave you, the 2017 radio call, but you 20 don't remember the names of these officers that you've 21 referenced multiple times, that you confided in, that 22 told you not to make complaints? You don't remember 23 one name? 24 A I gave you a name. I gave you Sergeant Rojo. 25 Q You don't remember his full name?</p>	<p style="text-align: right;">Page 72</p> <p>1 is doing with her Instagram or her Facebook. I don't 2 monitor her Instagram and her Facebook. 3 So, like I said, I didn't live with my mom at 4 the time. I don't know what she's doing with her 5 Facebook or her Instagram. But I do know that my mom 6 has befriended a lot of police officers from different 7 agencies, not only Hialeah, Miami Beach, and other 8 multiple agencies. She is into the brotherhood of 9 police work. She likes to network with other officers. 10 And she has multiple people from Miami Beach, and she 11 probably likes all of their stuff too. 12 Q Well, if you don't know what she does with her 13 Instagram, how do you know she's probably liking 14 everybody else's stuff too? 15 A Because that's what she does. She likes a bunch 16 of posts, from a bunch of people, all the time. 17 Q So you do have some knowledge of what she does? 18 A Some knowledge. Like I said, she adds a bunch 19 of officers from different agencies, she likes to 20 network with law enforcement, and she's very heavily 21 into that. She's very friendly, in the sense that she 22 will like anybody's post and network with as many 23 people as she can. 24 Q Did you confide in your mom about the situation 25 with Cosner?</p>
<p style="text-align: right;">Page 71</p> <p>1 A I don't remember now. 2 Q And you don't remember anyone else's name? 3 A No, not at the time. I had just started. I was 4 brand-new to that squad, and there's multiple officers 5 in the shift. I don't remember the names right now of 6 who I specifically spoke to that day. If I told you 7 who I specifically spoke to, I would be lying. So I 8 don't know who I specifically spoke to, but I do know 9 that I was scared enough to confide in my peers. 10 Q You just don't remember -- other than someone 11 with the -- a sergeant with the name Rojo, you don't 12 remember the names of any of these other peers that you 13 confided in? 14 A No, not off the top of my head of who I 15 specifically spoke to. 16 Q Do you have notes about what you talked to? 17 A No. 18 Q Is it a coincidence that your mom is liking 19 Lieutenant Cosner's Instagram posts around the same 20 time that all of this is happening? That's a 21 coincidence? It just so happens to be that, hey, she 22 friend-requests a lot of people from Miami Beach, and 23 by happenstance, during this exact time period, she's 24 also liking his posts? 25 A So, first of all, I can't tell you what my mom</p>	<p style="text-align: right;">Page 73</p> <p>1 A No. 2 Q Why not? 3 A Because I didn't want to. 4 Q Why didn't you want to? 5 A I didn't feel like I wanted to bring it up to my 6 mom and worry her of what was going on. 7 Q And where did she work at the time? 8 A Hialeah Police Department. 9 Q Is she a police officer? 10 A No. 11 Q What did she do there? 12 A She's a clerk. 13 Q Does she still work there? 14 A Yes. 15 Q Okay. Just so I've got it -- and I know I asked 16 it, but I just want to make sure -- other than Cosner's 17 2017 request for you to approve an A form, between your 18 rejecting him in '14 or early '15, and December -- late 19 December of 2020, you had no other interaction with him 20 whatsoever? 21 A From what time frame to what time frame? 22 Q From the time frame that you ended the 23 friendship, you know, '14 or '15ish, somewhere in that 24 neighborhood, through late December 2020, other than 25 this 2017 request to fill out -- or approve the A form,</p>

<p style="text-align: right;">Page 74</p> <p>1 you had no other interaction with him?</p> <p>2 A No.</p> <p>3 Q And whenever you two saw each other, he would</p> <p>4 ignore you?</p> <p>5 A Yes. That is correct.</p> <p>6 Q And did you ever attempt to talk to him?</p> <p>7 A No.</p> <p>8 Q You ignored him as well?</p> <p>9 A Yes.</p> <p>10 Q Okay.</p> <p>11 A And, again, I did so because of the way he took</p> <p>12 my rejection and the animosity that he had towards me</p> <p>13 telling him that I was not interested. And I had tried</p> <p>14 on multiple times to be cordial, and he continued to</p> <p>15 ignore me. So, yes, I had nothing else to speak to him</p> <p>16 about. I had tried. I'd done my best that I could,</p> <p>17 like I said, to maintain cordial working relationships</p> <p>18 with my peers. And he was very upset about my</p> <p>19 rejection, and he continued to ignore me.</p> <p>20 (Defendant's Exhibit 4 was marked for</p> <p>21 identification.)</p> <p>22 BY MR. ELKINS:</p> <p>23 Q All right. Let me know if you can see this</p> <p>24 document.</p> <p>25 A I can see it.</p>	<p style="text-align: right;">Page 76</p> <p>1 A I don't remember the date that I was filed under</p> <p>2 investigation.</p> <p>3 Q Okay. Did you fill out this charge, or did</p> <p>4 someone fill it out for you?</p> <p>5 A Somebody filled it out for me.</p> <p>6 Q Who?</p> <p>7 A Michael Pancier, at the time.</p> <p>8 Q Okay. And I don't want to know what you talked</p> <p>9 with Michael about. We'll get to that later.</p> <p>10 What's the basis of this charge?</p> <p>11 A So the basis of this charge is because at the</p> <p>12 time, after I had just gotten my rank back, I was</p> <p>13 experiencing -- I was working with numerous male</p> <p>14 lieutenants, and I was experiencing a lot of</p> <p>15 inappropriate and -- behavior and inappropriate</p> <p>16 comments while working with these lieutenants. And I</p> <p>17 gave the examples in that EEOC complaint.</p> <p>18 So one of them would be, they would watch porn</p> <p>19 inside the sergeant's office. They would banter back</p> <p>20 and forth about penis enlargements, about people that</p> <p>21 sleep around to get ahead in the department. And I was</p> <p>22 growing very uncomfortable with the way that these</p> <p>23 lieutenants were conducting themselves in my presence.</p> <p>24 And, you know, I would have conversations with my</p> <p>25 lieutenants, and they would turn it into a joke.</p>
<p style="text-align: right;">Page 75</p> <p>1 Q Okay. Do you recognize this document?</p> <p>2 A Yes.</p> <p>3 Q What is it?</p> <p>4 A It's an EEOC complaint.</p> <p>5 Q Okay. Is this an EEOC complaint that you filed?</p> <p>6 A Yes.</p> <p>7 Q Okay. So this is your second EEOC complaint</p> <p>8 against the city, correct?</p> <p>9 A That is correct.</p> <p>10 Q Okay. And the date, I believe, that you filed</p> <p>11 this was July 13th, 2020?</p> <p>12 A That is when it was filed.</p> <p>13 Q Okay. And did you file this after you were</p> <p>14 placed under investigation by internal affairs?</p> <p>15 A Do you have the document that shows the date</p> <p>16 that I was placed under internal affairs?</p> <p>17 Q I don't have that specific document, but I can</p> <p>18 get you that date. I mean, I can represent to you that</p> <p>19 this was filed after you were placed under</p> <p>20 investigation. I'm just asking if you remember that.</p> <p>21 A Again, I don't remember that, but I would like</p> <p>22 to see the document.</p> <p>23 Q Okay. Well, you don't remember if you filed</p> <p>24 this before or after you were placed under</p> <p>25 investigation?</p>	<p style="text-align: right;">Page 77</p> <p>1 For example, at one point, I told Lieutenant</p> <p>2 Flanagan that there was going to be an officer that was</p> <p>3 going to be late for work. He had requested a couple</p> <p>4 of hours in the beginning of the shift. And I said</p> <p>5 because he was getting some dental work, he was getting</p> <p>6 a dental filling. And his response to me was, Oh, so</p> <p>7 he was getting a -- he was getting a rectal filling,</p> <p>8 which I found absolutely appalling and disgusting.</p> <p>9 And -- and the fact that I was constantly hearing these</p> <p>10 type of comments and having to be subjected to this</p> <p>11 type of behavior in my working office, in my space, I</p> <p>12 went and I spoke to the FOP about what was going on</p> <p>13 throughout my -- my shifts, throughout my time there.</p> <p>14 And at the time, I was in a relationship with</p> <p>15 Nicholas Guasto, who was my significant other, and he</p> <p>16 got a firsthand account of some of the behavior that</p> <p>17 was going on. So he went to Wayne Jones at the time</p> <p>18 and had like about a two- to three-hour meeting in</p> <p>19 regards to this behavior and these inappropriate</p> <p>20 incidents that I was being subjected to. And so it</p> <p>21 fell on deaf ears. Wayne Jones at the time said that</p> <p>22 he was going to meet with me, that he was going to</p> <p>23 bring these individuals in and speak with them, along</p> <p>24 with Chief Clements. The FOP said that they were going</p> <p>25 to meet with Chief Clements and speak to him about what</p>

<p style="text-align: right;">Page 78</p> <p>1 was going on, which they did.</p> <p>2 But, again, nothing occurred after that, no --</p> <p>3 there was no follow-up. They didn't bring me in to ask</p> <p>4 me who was -- who was behaving in this way on -- you</p> <p>5 know, my concerns weren't heard. They fell on deaf</p> <p>6 ears, and nobody did anything to -- to stop it. So it</p> <p>7 culminated to me filing another EEOC complaint.</p> <p>8 Q When did Nick meet with Wayne?</p> <p>9 A Sometime in February of -- it was around the</p> <p>10 Super Bowl. I remember that.</p> <p>11 Q Of 2020?</p> <p>12 A Whenever the -- '20? Yes. So it was in 2020,</p> <p>13 February of 2020, that he met with Wayne Jones.</p> <p>14 Q And you were dating Nick at the time?</p> <p>15 A Yes.</p> <p>16 Q Did you ever date anybody else who worked for</p> <p>17 the city?</p> <p>18 A No.</p> <p>19 Q Only Nick Guasto?</p> <p>20 A I'm sorry. There was one individual. His name</p> <p>21 was Henry Doce. And I was in a relationship with him</p> <p>22 prior to Nick.</p> <p>23 Q How long were you in a relationship with Henry</p> <p>24 Doce?</p> <p>25 A Approximately five, six years. Approximately.</p>	<p style="text-align: right;">Page 80</p> <p>1 A Because I was scared. He's a command staff</p> <p>2 member, with a lot of influence, a lot of influence and</p> <p>3 a lot of power in that police department. And I was</p> <p>4 petrified again; why am I in a position again where I</p> <p>5 am harassed by these male officers, these male command</p> <p>6 staff members, these people of authority, these older</p> <p>7 people than me, these people with a lot of tenure in</p> <p>8 this police department?</p> <p>9 Q Well, you said "again" -- well, what was the</p> <p>10 basis of your fear? Because from what I've heard from</p> <p>11 you so far, any complaints you've made were addressed</p> <p>12 by the city.</p> <p>13 A That is not what I said.</p> <p>14 Q Well, you made the complaint about the officer</p> <p>15 stalking you.</p> <p>16 A Yes.</p> <p>17 Q And that had been addressed, correct?</p> <p>18 A Yes.</p> <p>19 Q And then you had resolved your grievance and</p> <p>20 earlier EEOC charge, correct? Is that correct?</p> <p>21 A Yes.</p> <p>22 Q And with Cosner, you rejected his advances, and</p> <p>23 then again, Sands, was one incident in 2017. At the</p> <p>24 time of this EEOC charge in 2020, you and Cosner had no</p> <p>25 contact whatsoever. So what exactly were you fearing</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Was that like generally public knowledge at the</p> <p>2 city?</p> <p>3 A Yes. It was a serious relationship. We lived</p> <p>4 together. We were, you know, in a relationship for a</p> <p>5 good amount of time.</p> <p>6 Q How about Steven Feldman? Were you ever in a</p> <p>7 relationship with him?</p> <p>8 A No.</p> <p>9 Q How about a casual relationship?</p> <p>10 A No.</p> <p>11 Q Any other casual relationships?</p> <p>12 A No.</p> <p>13 Q Okay. Okay. It says here that you started to</p> <p>14 receive sexually explicit text messages from a command</p> <p>15 staff member. Who was the command staff member?</p> <p>16 A The command staff member was Steven Feldman.</p> <p>17 Q Okay. When did you receive those messages?</p> <p>18 A It was during the time that I had just recently</p> <p>19 got reinstated to sergeant.</p> <p>20 Q So 2018, '19ish --</p> <p>21 A Yes.</p> <p>22 Q -- somewhere around there?</p> <p>23 And you never reported them?</p> <p>24 A No.</p> <p>25 Q Why not?</p>	<p style="text-align: right;">Page 81</p> <p>1 from a retaliation standpoint?</p> <p>2 A Well, I had just gotten my stripes back, my</p> <p>3 sergeant's position back, and I was scared that this</p> <p>4 very known, powerful command staff member would have</p> <p>5 influence in me coming forward and telling the city</p> <p>6 what was -- what was going on with him. And I was</p> <p>7 scared to be demoted again and to be retaliated</p> <p>8 against.</p> <p>9 My complaints happened, and they continued to</p> <p>10 happen. Yes, they have been resolved differently, some</p> <p>11 of them, but the point of the matter is that they</p> <p>12 continue to happen. This behavior continues to happen.</p> <p>13 It is a toxic environment, where they condone this type</p> <p>14 of behavior. So, yes, the complaints have been -- have</p> <p>15 been addressed, but the complaints continue to happen.</p> <p>16 And that's what I was scared of, of more continued</p> <p>17 behavior.</p> <p>18 Q Do you still have the text messages that he sent</p> <p>19 you?</p> <p>20 A I do not.</p> <p>21 Q What happened to them?</p> <p>22 A I was scared, so I deleted them.</p> <p>23 Q When did you delete them?</p> <p>24 A I don't have the date.</p> <p>25 Q Okay. It says here you had an issue in October</p>

<p style="text-align: right;">Page 82</p> <p>1 or November of '19, where Lieutenant Garcia was 2 screenshotting your personal pictures of your social 3 media and forwarding it to the whole police station? 4 A That is correct. 5 Q What type of pictures was he screenshotting? 6 A So he -- I don't know how he managed to get 7 pictures of Nick and I, personal pictures that Nick had 8 put on his Instagram, but he was basically taking 9 screenshots of our pictures and sending them around the 10 police station, saying things like, How could Jessica 11 date Nick, who is fat and ugly? He was telling -- 12 making fun of the fact that him and I were together, to 13 multiple people who came forward and told Nick what he 14 was doing, as well as Nick telling me what he was 15 doing. 16 And so Nick actually asked him in my presence 17 why he was doing that, and he told him because he 18 could. And he did it. And this incident happened, 19 where he confronted him, in the main police station, on 20 the second floor, with multiple people present. 21 Q And other than the EEOC charge, did you complain 22 about that conduct? 23 A I had been complaining about that conduct, 24 again -- 25 Q To who?</p>	<p style="text-align: right;">Page 84</p> <p>1 Q What was in writing about it? 2 A I have messages between myself and Kevin Millan, 3 talking to him about these complaints and these issues. 4 And on that same date, I met with him for about three 5 hours in the FOP office. And then from there, he went 6 and spoke to Chief Clements. He called me on that same 7 day, saying that the chief was going to bring me in to 8 speak to me about my complaints, and it never happened. 9 It never transpired. 10 Q What day? 11 A I don't have the date on the top of my head, but 12 I do have that information. 13 Q Where is that information? 14 A My counsel has it. 15 Q Is there any reason it wasn't produced? 16 A I believe it was, through text messages. 17 Q Oh, okay. And we're talking about Lieutenant 18 Garcia here? 19 A My messages about Lieutenant Garcia and some of 20 the issues that I was going through with Kevin Millan. 21 Yes, that exchange. 22 Q Okay. And Lieutenant Garcia's issues also 23 include his requests for you to go to breakfast and 24 work out with him in the gym? 25 A Yes. He would ask me to go to breakfast, and I</p>
<p style="text-align: right;">Page 83</p> <p>1 A -- through Wayne Jones and through the FOP. 2 Q And why didn't the FOP do anything about it? 3 A They did. They spoke to the chief of police, 4 and they told him what was going on. And, again, like 5 I said, it fell on deaf ears. Nothing was done about 6 it. 7 Q Did you tell the FOP that nothing was done about 8 it? 9 A Yes. And they told me as well. 10 Q And why didn't they take any action after that? 11 A They continued to try to take action, but, 12 again, the city -- the -- I'm sorry -- the chief did 13 not want to hear or resolve any of my complaints. 14 Q And by "chief," are you referring to Chief 15 Clements? 16 A That is correct. 17 Q Who from the FOP talked to Chief Clements about 18 this issue with Lieutenant Garcia? 19 A Kevin Millan. 20 Q Anyone else? 21 A I believe Robert Azicri. 22 Q Anyone else? 23 A I don't remember off the top of my head. 24 Q Anything in writing about this complaint? 25 A Yes.</p>	<p style="text-align: right;">Page 85</p> <p>1 would say no on multiple occasions, to the point where 2 he brought me into the office and said, This is the way 3 that we build rapport, and I expect you to come to 4 breakfast with the rest of the sergeants and the 5 lieutenants. On that one occasion, I did go with him, 6 with the rest of my squad mates, and it turned -- with 7 the rest of the sergeants and some of the lieutenants, 8 and it turned into me sitting in a cafe with all these 9 male officers talking about the waitresses inside the 10 restaurant, talking about sexual connotations, to the 11 point where I said, I'm leaving, I have to go do 12 administrative work. And I left from -- from those 13 breakfasts. It was severely uncomfortable and so 14 inappropriate, and that's the main reason why I 15 refrained from going. 16 Q And was that part of your complaints? 17 A Yes. 18 Q Okay. And then you say here that you were 19 subjected to a hostile work environment when your 20 supervisors and others openly engaged in sexually 21 inappropriate and offensive comments and viewing 22 pornographic videos in the workplace on their cell 23 phones. Who -- what supervisors did that? 24 A The ones on my EEOC, as well as other sergeants 25 and lieutenants.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q What are their names?</p> <p>2 A There's multiple sergeants inside the sergeant</p> <p>3 room at any given time. It was a huge banter going on</p> <p>4 back and forth, where you can hear and see the contents</p> <p>5 of porn that they were displaying, with multiple</p> <p>6 sergeants there, with lieutenants coming in and out,</p> <p>7 laughing, joking.</p> <p>8 Q Well, you said here "my supervisors." So who</p> <p>9 are the supervisors you're referring to?</p> <p>10 A So some of them included Lieutenant Garcia, some</p> <p>11 of them included Lieutenant Flanagan, who were my</p> <p>12 superiors, and then my peers were multiple sergeants</p> <p>13 that were in the room.</p> <p>14 Q Okay. Well, what are their names? Well, let me</p> <p>15 ask it a different way. What sergeants did you observe</p> <p>16 engaging in sexually inappropriate and offensive</p> <p>17 comments and/or viewing pornographic videos on their</p> <p>18 cell phones?</p> <p>19 A So I don't have the specific names of who was</p> <p>20 doing that at the time. I do know that I was inside</p> <p>21 this room of -- filled with multiple sergeants,</p> <p>22 multiple lieutenants, and I can hear and see them</p> <p>23 putting on their cell phone porn, and then joking and</p> <p>24 bantering back and forth very loudly.</p> <p>25 Q So you filed an EEOC charge accusing, quote,</p>	<p style="text-align: right;">Page 88</p> <p>1 This is how so-and-so got the new position, or this is</p> <p>2 what you have to do around here to get in a specialized</p> <p>3 unit. Who are the lieutenants and sergeants that made</p> <p>4 these comments?</p> <p>5 A Again, like I said, Lieutenant Garcia.</p> <p>6 Lieutenant Flanagan was one of them. Lieutenant</p> <p>7 Garcia. Lieutenant Dohler was one of them. Multiple.</p> <p>8 This was a common behavior where multiple of</p> <p>9 lieutenants and sergeants were conducting themselves</p> <p>10 in.</p> <p>11 Q What about sergeants? Can you name any specific</p> <p>12 ones?</p> <p>13 A I can't name any specific ones.</p> <p>14 Q Okay.</p> <p>15 A Again, they're all bunched up together. They're</p> <p>16 all inside this office, bantering back and forth. And</p> <p>17 I was trying my best to stay away from that -- that</p> <p>18 behavior and that crowd, as my desk was off to the</p> <p>19 left.</p> <p>20 Q And it says, I've been subjected to listening to</p> <p>21 my colleagues talk about penis enlargements and detail</p> <p>22 how the procedure is done. Who are the colleagues that</p> <p>23 talked about this?</p> <p>24 A So we have cubicles in the sergeant's office,</p> <p>25 and you can hear sergeants speaking about this and</p>
<p style="text-align: right;">Page 87</p> <p>1 others openly engaging in sexually inappropriate and</p> <p>2 offensive comments and viewing pornographic videos in</p> <p>3 the workplace on their cell phones, and you can't name</p> <p>4 a single person besides the supervisors?</p> <p>5 A So I did name the supervisors.</p> <p>6 Q I know. I said --</p> <p>7 A And then --</p> <p>8 Q Hold on.</p> <p>9 I said besides the supervisors. I'm asking</p> <p>10 about the -- who are the others?</p> <p>11 A Okay. So, like I said, at the time, I'm in a</p> <p>12 room full of multiple sergeants, with all this banter</p> <p>13 going back and forth, 10, 15 sergeants in there at any</p> <p>14 given time, walking in and out, and showing this</p> <p>15 content, laughing about this content. My desk was in a</p> <p>16 position where I can't name you the specific people,</p> <p>17 but I did see and hear what they were speaking about.</p> <p>18 And it was loud. They were putting porn on their phone</p> <p>19 in a loud volume. I don't have the specifics of who</p> <p>20 was doing it, but I do know that it was going on.</p> <p>21 Q So out of these 14 or 15 people, you can't name</p> <p>22 one person, correct?</p> <p>23 A No.</p> <p>24 Q Okay. And then it says the lieutenants and</p> <p>25 sergeants would openly laugh and make comments like,</p>	<p style="text-align: right;">Page 89</p> <p>1 joking about it --</p> <p>2 Q But you don't know --</p> <p>3 A -- very loudly.</p> <p>4 No, I do not know who -- who it was that said</p> <p>5 it, but I know that it happened.</p> <p>6 Q Did you ever tell anyone to stop?</p> <p>7 A I did not tell anybody to stop. I would just</p> <p>8 walk away or leave the office. And when I would do</p> <p>9 that, I would get accused of being an introvert, and I</p> <p>10 would get accrued of not being a team player and not</p> <p>11 being with my peers.</p> <p>12 Q Why is it that you can't remember a single name</p> <p>13 of any sergeants that did any of this conduct? You</p> <p>14 have multiple allegations that are pretty specific, you</p> <p>15 use the broad term "sergeants," but you can't name one</p> <p>16 sergeant, one of the 14 or 15? You didn't recognize</p> <p>17 anyone's voices? Nothing like that?</p> <p>18 A I didn't recognize anyone's voices. I know that</p> <p>19 I sat at my desk, and I know that I heard what I heard</p> <p>20 and saw on the phones this type of content.</p> <p>21 Q Well, let me ask you this: If you didn't</p> <p>22 recognize their voices and you didn't know their names,</p> <p>23 how do you know they were sergeants?</p> <p>24 A Because it's the sergeants' office, where all</p> <p>25 the sergeants are in there doing their administrative</p>

<p style="text-align: right;">Page 90</p> <p>1 work. Where they're in, you can hear the radio. You 2 can hear them coming on the radio and saying specific, 3 you know, calls on the radio or acknowledging radio -- 4 the radio. You can tell and you know that it was a 5 sergeant. 6 Q But there were also lieutenants in there 7 as well, and you know who they are, right? 8 A Yes. 9 Q And it's possible there could have been other 10 people in there that weren't sergeants. I mean, you 11 really don't know, right? 12 A You do know, because in the sergeants' office, 13 you can see the sergeants' desks, and you can see that 14 there's sergeants in there. And there is not -- it's 15 not common at all for an officer to be in there. 16 Q So you could visibly see the sergeants in the 17 office when these types of comments were being made and 18 when the porn was being viewed, but you can't, sitting 19 here today, name one that engaged in any of the conduct 20 that you reference on the first page of this 2020 EEOC 21 charge? Do I have that right? 22 A No. I sat in my desk. It was off to the left. 23 I can see and hear them playing porn, them talking all 24 this banter. I can see them coming in and out. But I 25 don't know who directly was doing it. I was trying to</p>	<p style="text-align: right;">Page 92</p> <p>1 trouble. And then he proceeded to dry hump a partition 2 in the sergeants' office, in front of me. 3 Q I have one question here. Who specifically made 4 the comment, These negroes are entitled and racist? Who 5 said that? 6 A That is Lieutenant Baldwin, at the time. 7 Q When did he say that? 8 A Like I said, during the riots. 9 Q Do you remember what year that was? 10 A I don't recall. 11 Q What was the time frame of this general conduct, 12 the porn in the office, the penis enlargement 13 discussion, these racist comments? Like, what year was 14 all this going on? 15 A It was a constant, every year, all year. 16 Q All day, every day? 17 A All day. 18 Q Did you ever make any written complaints about 19 any of this prior to your EEOC charge? 20 A Like I said, I had enough of this type of 21 behavior that I was deeply offended by it. And by 22 proxy, I had -- Nick Guasto spoke to -- because he had 23 that good rapport with Wayne Jones, and he spoke to him 24 about everything that was going on. And he was in 25 there for about three hours with Wayne Jones. And,</p>
<p style="text-align: right;">Page 91</p> <p>1 concentrate on what was in front of me, which was my 2 desk and my administrative work that I was conducting, 3 and I tried to not look at this type of behavior. And 4 when it got so egregious, I would just walk out and try 5 to put blinders on and not see and not try to engage in 6 any of this type of behavior. 7 Q Who are the colleagues that you had to listen to 8 disparage black supervisors and use derogatory comments 9 like, quote, these negroes are entitled and racist, end 10 quote? 11 A That was multiple of my lieutenants. 12 Q What are their names? 13 A One of them said it directly to me, which was at 14 the time -- I believe he's a captain now -- Lieutenant 15 Baldwin. It was during the riots. And I had reported 16 to him directly, and he was giving me some information 17 for the shift when he said that quote to me. 18 Q Anyone else? 19 A Lieutenant Flanagan would say things like -- 20 there was an incident that occurred on the beach, where 21 Andrew Gillum, who I believe was a political person, 22 got in trouble on the beach. And he made some 23 derogatory comments about him, saying that he was 24 probably having black anal sex and engaging in -- in 25 sexual behaviors and drugs and that's why he got in</p>	<p style="text-align: right;">Page 93</p> <p>1 again, I spoke to the FOP about it prior to this EEOC. 2 MR. ELKINS: Okay. Let's take five. 3 THE VIDEOGRAPHER: The time is 10:58 a.m. 4 We're going off the record. 5 (A break was taken from 10:58 a.m. to 6 11:17 a.m.) 7 THE VIDEOGRAPHER: The time is 11:17 a.m. 8 We're back on the record. 9 BY MR. ELKINS: 10 Q Okay. You mentioned this meeting between Nick, 11 I guess your then-boyfriend, then soon-to-be future 12 husband, I guess -- between Nick and Wayne Jones. It 13 was like a three-hour meeting you talked about? 14 A Yes. 15 Q When did that meeting take place? 16 A In February of 2020. 17 Q Were you present for the meeting? 18 A I was not. 19 Q Was anyone else present for the meeting, that 20 you know of? 21 A Yes. 22 Q Who? 23 A Lieutenant -- at the time, he was Lieutenant -- 24 either Lieutenant Garcia or Captain Garcia at the time. 25 I don't remember. But Eric Garcia.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q Not the same Garcia from the EEOC charge?</p> <p>2 A No.</p> <p>3 Q Different, right?</p> <p>4 A Yes.</p> <p>5 Q Okay. Anyone else?</p> <p>6 A Steven Feldman was present as well.</p> <p>7 Q Okay. And how did you learn of the contents of</p> <p>8 the meeting? Did Nick tell you?</p> <p>9 A So I had asked to -- I'm sorry. Nick had told</p> <p>10 me that he was going to speak to Wayne Jones about my</p> <p>11 concerns and my complaints that I was experiencing</p> <p>12 throughout. And so I asked if I could be present in</p> <p>13 the meeting, and Wayne Jones had told him that he would</p> <p>14 rather speak to him and then Nick can relay to me the</p> <p>15 information, but that he was very much open to hearing</p> <p>16 Nick's concerns -- or --</p> <p>17 Q And this happened -- go ahead. I'm sorry.</p> <p>18 A -- that he was very much open to having a</p> <p>19 discussion with Nick regarding my concerns.</p> <p>20 Q And this happened February 2020. So that would</p> <p>21 include -- the concerns, I'm assuming, that were</p> <p>22 addressed in this meeting were on this first page of</p> <p>23 this EEOC charge? And I ask that because the second</p> <p>24 page deals with, it looks like, allegations from after</p> <p>25 February 2020. So do I have that right?</p>	<p style="text-align: right;">Page 96</p> <p>1 there's incidents that are from May of 2020 and from</p> <p>2 April of 2022.</p> <p>3 Q Yeah, but I'm asking you about what Nick talked</p> <p>4 to Wayne about. How could, in May -- in February of</p> <p>5 2020, Nick talk to Wayne about things that happened in</p> <p>6 April and May of 2020? They hadn't happened yet.</p> <p>7 A Okay. I understand your question now.</p> <p>8 So, yes, it was from everything before February,</p> <p>9 before -- from -- all the way to my beginning of my</p> <p>10 tenure with the police department.</p> <p>11 Q Right. So including February 2020 backwards?</p> <p>12 A Yes.</p> <p>13 Q But Nick did not talk to Wayne about anything</p> <p>14 occurring March 2020, April 2020, May 2020, June 2020,</p> <p>15 all of this stuff on the second page?</p> <p>16 A That is correct.</p> <p>17 Q Oh, okay. Okay. Got it.</p> <p>18 A That is correct. And obviously because it</p> <p>19 hadn't happened yet. We were still --</p> <p>20 Q Correct.</p> <p>21 A -- in February.</p> <p>22 Q Correct.</p> <p>23 A However, the FOP did speak to the chief about</p> <p>24 everything post-February 2020 and everything after</p> <p>25 February of 2020 --</p>
<p style="text-align: right;">Page 95</p> <p>1 A Can you rephrase your question, because --</p> <p>2 Q Yeah.</p> <p>3 A -- I don't understand what you're asking me.</p> <p>4 Q Nick's February 2020 meeting with Wayne --</p> <p>5 A Yes.</p> <p>6 Q -- where he addressed your concerns, the</p> <p>7 concerns that he was addressing were concerns obviously</p> <p>8 that occurred from February 2020 backwards, correct?</p> <p>9 A No. It was a culmination of -- basically, Nick</p> <p>10 went in there and had discussed with him from A through</p> <p>11 Z, in the sense of what I have experienced in my</p> <p>12 career, in my tenure, from the moment I got there, all</p> <p>13 the way to the present date in February.</p> <p>14 Q So February 2020 backwards?</p> <p>15 A Yes.</p> <p>16 Q Okay. And it looks like, from this EEOC charge,</p> <p>17 the allegations on page 1 are from February 2020</p> <p>18 backwards, correct?</p> <p>19 Take a minute and look at it. I'm not trying to</p> <p>20 trap you. I just want to make sure I've got the time</p> <p>21 lines correct.</p> <p>22 A So it's correct that -- can you lower it,</p> <p>23 please. No. Like go to the next page.</p> <p>24 So it's correct that it has -- it was from</p> <p>25 February backwards, but also forward as well, because</p>	<p style="text-align: right;">Page 97</p> <p>1 Q Did they --</p> <p>2 A -- to --</p> <p>3 Q Go ahead.</p> <p>4 A They met with Chief Clements and spoke to him</p> <p>5 about all of these complaints that are on this EEOC.</p> <p>6 Q Before the EEOC charge was filed?</p> <p>7 A I believe before and after.</p> <p>8 Q Well, we'll get to after.</p> <p>9 A Okay.</p> <p>10 Q Who from the FOP spoke to Chief Clements, and</p> <p>11 when?</p> <p>12 A So I don't have the date with me right now, but</p> <p>13 I do know that it was Kevin Millan and Robert Azicri,</p> <p>14 were two of them. I know that -- it was somebody.</p> <p>15 Reggie Lester also spoke to the chief, as well, of what</p> <p>16 was transpiring. So they're all part of the FOP.</p> <p>17 Q And did you make written complaints to them</p> <p>18 about each of these post-February 2020 allegations on</p> <p>19 page 2 of the 2020 EEOC charge?</p> <p>20 A Well, I had a meeting with them, an in-person</p> <p>21 meeting, for about two and a half, three hours.</p> <p>22 Q You and the FOP?</p> <p>23 A Yes, I did.</p> <p>24 Q And who was present at that meeting?</p> <p>25 A In that meeting, Kevin Millan was present and</p>

<p style="text-align: right;">Page 98</p> <p>1 Robert Azicri was present.</p> <p>2 Q And when was that meeting?</p> <p>3 A I don't have the date with me at this moment</p> <p>4 right now, but I -- it did occur.</p> <p>5 Q You don't even remember what month</p> <p>6 approximately?</p> <p>7 A I don't. I would have to look at my records.</p> <p>8 Q What records would you have to look at?</p> <p>9 A The text messages between Kevin Millan and I,</p> <p>10 when he asked me to come over to the FOP office to</p> <p>11 speak.</p> <p>12 Q And was that before or after you filed the EEOC</p> <p>13 charge?</p> <p>14 A I believe that was after. I mean, I'm sorry,</p> <p>15 before.</p> <p>16 Q Okay. Why didn't the FOP take any formal action</p> <p>17 on your behalf?</p> <p>18 A The FOP did take formal action --</p> <p>19 Q What did they do?</p> <p>20 A -- on my behalf.</p> <p>21 They spoke to Richard Clements and advised him</p> <p>22 of the incidents that were going on and my complaints.</p> <p>23 And the chief had told them that he was going to handle</p> <p>24 it.</p> <p>25 Q But you don't believe the chief did handle it?</p>	<p style="text-align: right;">Page 100</p> <p>1 A Again, in our policies, it states that you can</p> <p>2 go to whoever to report harassment and any type of</p> <p>3 retaliation or any type of inappropriate behavior. And</p> <p>4 that's who I felt the most comfortable with, was to</p> <p>5 tell the FOP what was going on, because internal</p> <p>6 affairs is part of the chief's office. They work</p> <p>7 directly for the chief. So in that sense, yes, I went</p> <p>8 to the FOP, who went directly to the chief.</p> <p>9 Q On page 2 of the EEOC charge, where you say, In</p> <p>10 or about February of 2020, I had another lieutenant</p> <p>11 asking several sergeants whom he saw speaking to me if</p> <p>12 they were sleeping with me.</p> <p>13 Who's that lieutenant?</p> <p>14 A That lieutenant is Lieutenant Dohler.</p> <p>15 Q And who were the sergeants?</p> <p>16 A There were several sergeants that came up to me.</p> <p>17 I don't remember who they were. Again, we were in the</p> <p>18 sergeants' office. There was always a multiple of</p> <p>19 sergeants there at a time. And I was told, Hey,</p> <p>20 Lieutenant Dohler is asking, you know, every time they</p> <p>21 see you with another sergeant, if -- if there's -- if</p> <p>22 they're sleeping with you.</p> <p>23 Q And who's the major that inappropriately grabbed</p> <p>24 your wrist?</p> <p>25 A That was Major De La Espriella.</p>
<p style="text-align: right;">Page 99</p> <p>1 A He did not handle it.</p> <p>2 Q Okay. So why didn't the FOP take any action</p> <p>3 then?</p> <p>4 A They continued to ask Clements to handle it, and</p> <p>5 it continued to not be heard.</p> <p>6 Q But they never filed a grievance, correct, on</p> <p>7 your behalf?</p> <p>8 A There was no grievance to file. It's a</p> <p>9 complaint that you can -- you can notify anybody of a</p> <p>10 complaint. I notified my FOP. My FOP told me that</p> <p>11 they were going to notify the chief of police, who did</p> <p>12 not take any action.</p> <p>13 Q Did you go to internal affairs about any of the</p> <p>14 complaints?</p> <p>15 A No. I went to the FOP, and the FOP went to</p> <p>16 Richard Clements, who said he was going to handle it.</p> <p>17 Q And when the chief didn't handle it, did you go</p> <p>18 to internal affairs?</p> <p>19 A No. I went back to the FOP, and I advised him</p> <p>20 that I still had not been spoken to. And they said</p> <p>21 they were going to follow up with Richard Clements.</p> <p>22 Q At any point did you go to internal affairs</p> <p>23 about any of these complaints?</p> <p>24 A No, I did not.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 101</p> <p>1 Q Did you make a complaint about him doing that?</p> <p>2 A No, because, again, I told the FOP about all of</p> <p>3 these complaints. Everything that is here on this</p> <p>4 document, I had told the FOP. I told them about</p> <p>5 Lieutenant Garcia. I told them about Lieutenant</p> <p>6 Dohler. I told them about Lieutenant Baldwin. I told</p> <p>7 them about Major De La Espriella. I let -- I had a</p> <p>8 meeting with them for two-plus hours, and I told them</p> <p>9 all of what was going on.</p> <p>10 Q Is there a reason that through the bulk of this</p> <p>11 EEOC charge, you don't actually name people? I mean,</p> <p>12 if you had told the FOP and you made all of these</p> <p>13 internal complaints, I'm assuming you gave them names.</p> <p>14 But why in the EEOC charge do you say another</p> <p>15 lieutenant, a major, a male sergeant? How come you</p> <p>16 don't name anybody?</p> <p>17 A I don't know. I know that that's the way my</p> <p>18 attorney at the time wrote this document. But I did</p> <p>19 name names to the FOP. And I did relay that</p> <p>20 information to them to relay to the chief. And in this</p> <p>21 document, it does name some people.</p> <p>22 Q It names some, but there's plenty of others that</p> <p>23 aren't named.</p> <p>24 So who is the male sergeant that was verbally</p> <p>25 counseled for violating the state emergency order?</p>

<p style="text-align: right;">Page 102</p> <p>1 A At that time, that was -- I don't know for sure. 2 I believe it was either Lieutenant -- I'm sorry -- 3 Sergeant Del Castillo or it was -- it could've been -- 4 it had to be a sergeant that worked in the 5 entertainment district. That's what I remember at the 6 time. So I don't know if it was him or the other 7 sergeant that worked on the opposite side of the week 8 with him. But I'm not -- I'm not certain which one it 9 was. 10 Q And who was the lieutenant in March or April of 11 2020 that made the comment about the rectum filling? 12 A That was Lieutenant Flanagan. 13 Q And that's the same -- that's also Lieutenant 14 Flanagan that you're referring to a few weeks later, 15 the lieutenant that started to imitate sexual acts in 16 the workplace? 17 A Yes. The one that I had described earlier about 18 him dry humping a partition. 19 Q Okay. Who's the lieutenant that demanded you to 20 respond to their office and see your personal cell 21 phone, to check its battery, in April of 2020? 22 A That was Lieutenant Flanagan. 23 Q And that's the same lieutenant throughout this 24 whole paragraph, correct? 25 A That is correct.</p>	<p style="text-align: right;">Page 104</p> <p>1 with Wayne Jones, but he had said it would be better if 2 it was just Nick. 3 Q And then thereafter, you had multiple meetings 4 with the FOP about all of these complaints that flowed 5 from February 2020 through June 2020, correct? 6 A That is correct. 7 Q Do you remember how many meetings you had with 8 the FOP? 9 A I know there were multiple. There was in person 10 and there was over the phone. 11 Q Do you remember how many? 12 A More than a handful. 13 Q And was it always -- was Kevin Millan in every 14 single one of them? 15 A He was the FOP president at the time. Yes. 16 Q Okay. And did you ever express any 17 dissatisfaction with how the FOP handled these 18 complaints? 19 A At the time, I did not, because I believed in 20 good faith that they were going to handle my 21 complaints. At the time, Kevin Millan had continued to 22 speak to the chief. So he had reached out to me every 23 single time he did, so I believed that he was doing 24 what he had to do by letting the administration know of 25 my complaints. So, no. He had let the chief know</p>
<p style="text-align: right;">Page 103</p> <p>1 Q Okay. And then looking down in June 2020, who's 2 the lieutenant that made comments in front of you that 3 it's the Hispanics causing riots in Miami and making 4 the protests violent? 5 A That was Lieutenant Baldwin, the same who had 6 made that previous comment about -- I believe it's on 7 the first page. 8 Q Which comment are you referring to? 9 A The one that says, I had to listen to some of my 10 colleagues disparage black supervisors and use 11 derogatory comments. 12 Q The same lieutenant? 13 A Yes. 14 Q Lieutenant Baldwin? 15 A Yes. 16 Q Okay. Got it. 17 All right. So if I'm understanding right -- I 18 just want to make sure I get it -- for all of the 19 complaints up through February 2020, Nick Guasto talked 20 to Wayne Jones about those. And you were also talking 21 to the FOP about those, or did just Nick talk to Wayne? 22 A No. Nick spoke to Wayne, and I spoke to the 23 FOP. 24 Q Okay. 25 A And I had wanted to be included in the meeting</p>	<p style="text-align: right;">Page 105</p> <p>1 multiple times. 2 I'm dissatisfied with how management, to include 3 Richard Clements, did not handle my complaints and did 4 not give me the opportunity to speak with him about 5 these complaints. 6 Q During this time period you're talking about? 7 A Yes. 8 Q And is Lieutenant Cosner mentioned in your 2020 9 EEOC charge that we just reviewed? 10 A The one that we just reviewed? No. 11 Q Correct. 12 A No. 13 Q Is he part of any of those allegations at all? 14 A No. 15 Q Okay. And it's the 2020 EEOC charge that is the 16 protected activity that you believe you were retaliated 17 against, when you were ultimately separated from 18 employment. Do I have that right? 19 A It is the EEOC charge that my counsel present 20 filed, as well as the 2020. 21 Q Well, you're talking about your 2021 EEOC 22 charge? 23 A Yes. 24 Q Well, your 2021 EEOC charge -- correct me if I'm 25 wrong -- came after you were terminated, correct?</p>

<p style="text-align: right;">Page 106</p> <p>1 A Yes.</p> <p>2 Q Right?</p> <p>3 A Yes.</p> <p>4 Q Okay. So there's no way the city could've</p> <p>5 retaliated against you, because you were already</p> <p>6 separated. Does that make sense?</p> <p>7 A That makes sense. Sorry. I did not understand</p> <p>8 your question.</p> <p>9 Q I figured you didn't. I'm not trying to trap</p> <p>10 you. That's why I want to clarify it.</p> <p>11 So the protected activity that you believe</p> <p>12 caused the city to retaliate against you is this 2020</p> <p>13 EEOC charge we just went over, correct?</p> <p>14 A Yes.</p> <p>15 Q Okay. Your position, as I understand it, in the</p> <p>16 remaining claims from this lawsuit is that you were</p> <p>17 fired because you filed that 2020 EEOC charge?</p> <p>18 A Not only that, but because of these frivolous</p> <p>19 allegations that Lieutenant Cosner wrote. And I</p> <p>20 believe that the city retaliated against me and</p> <p>21 separated my employment over allegations that were</p> <p>22 never substantiated, that were never proven, and</p> <p>23 basically were just allegations. So in -- with the</p> <p>24 EEOC and with that incident that happened with</p> <p>25 Lieutenant Cosner, I do believe that the city</p>	<p style="text-align: right;">Page 108</p> <p>1 Q Okay. So I'm going to show you -- do you see</p> <p>2 this document?</p> <p>3 A Yes.</p> <p>4 Q Okay. This is your 2021 EEOC charge, which I</p> <p>5 believe is the third EEOC charge you filed against the</p> <p>6 city. Correct?</p> <p>7 A That is correct.</p> <p>8 Q Okay. Now, in this charge -- I'm going to</p> <p>9 scroll down. Right at the top here you say, On the</p> <p>10 first day back to work after CP signed the agreement --</p> <p>11 that's you, I believe, charging party -- Respondent</p> <p>12 Cosner, who was previously involved in the conduct</p> <p>13 leading to the 2020 charge -- so I'm confused. Was he</p> <p>14 involved in the 2020 charge or not?</p> <p>15 A He was not involved in the 2020 charge.</p> <p>16 Q Why did you put it in your 2021 charge that he</p> <p>17 was?</p> <p>18 A So in the conduct leading to the 2020 charge,</p> <p>19 which means everything that happened from the beginning</p> <p>20 of -- of my tenure there, he was part of that conduct</p> <p>21 leading up to the 2020 charge. So I didn't file</p> <p>22 anything against Cosner in 2014, moving on to 2020, but</p> <p>23 he did have conduct leading up to the 2020 charge. I</p> <p>24 just had not reported it, like I said, because I was</p> <p>25 scared to report his behavior towards me.</p>
<p style="text-align: right;">Page 107</p> <p>1 retaliated against me and separated me unjustly.</p> <p>2 Q So you think part of the reason the city</p> <p>3 separated you is because it relied on unproven,</p> <p>4 unsubstantiated, uninvestigated allegations?</p> <p>5 A That is correct.</p> <p>6 MR. ELKINS: Okay. I think now is a good time</p> <p>7 to eat, because I'm kind of hungry. An hour?</p> <p>8 MR. DARAGJATI: That's fine.</p> <p>9 THE VIDEOGRAPHER: Off the record. The time is</p> <p>10 11:36 a.m. We're going off the record.</p> <p>11 (A break was taken from 11:36 a.m. to</p> <p>12 12:32 p.m.)</p> <p>13 THE VIDEOGRAPHER: The time is 12:32 p.m.</p> <p>14 We're back on the record.</p> <p>15 BY MR. ELKINS:</p> <p>16 Q Okay. I think I had asked you earlier, so I</p> <p>17 just want to double-check it, that for the 2020 EEOC</p> <p>18 charge, which covered events up to February 2020, and</p> <p>19 then events right after February 2020 through</p> <p>20 June 2020, if Cosner was involved in anything in that</p> <p>21 charge, and I think you said he was not.</p> <p>22 A That is correct.</p> <p>23 (Defendant's Exhibit 5 was marked for</p> <p>24 identification.)</p> <p>25 BY MR. ELKINS:</p>	<p style="text-align: right;">Page 109</p> <p>1 Q But he's not part of the 2020 charge, correct?</p> <p>2 A Not specifically, not there in that 2020 charge.</p> <p>3 Q Okay.</p> <p>4 A But he's involved in the conduct leading up to</p> <p>5 the 2020 charge.</p> <p>6 Q Got it.</p> <p>7 Do you know if Cosner was even aware that you</p> <p>8 had filed a 2020 EEOC charge?</p> <p>9 A Yes.</p> <p>10 Q How do you know he was -- if he was or was not</p> <p>11 aware?</p> <p>12 A Because he sat right in back of me in the</p> <p>13 sergeants' office, and it was common knowledge of my</p> <p>14 EEOC charge, as well as my LCA that was implemented.</p> <p>15 And so he sat behind me. It was a common occurrence</p> <p>16 where sergeants in the sergeants' office were talking</p> <p>17 about my EEOC charge, as well as my LCA, where they</p> <p>18 would openly make comments about my EEOC charge and my</p> <p>19 LCA. And he sat right in back of me, and he was privy</p> <p>20 to a lot of this information. And he would see when</p> <p>21 the FOP would come in -- into the office to ask me to</p> <p>22 step out to come speak to them. And it was common</p> <p>23 knowledge throughout the whole entire station,</p> <p>24 specifically the sergeants' office where this</p> <p>25 information was known and it was open and it was out</p>

<p style="text-align: right;">Page 110</p> <p>1 there.</p> <p>2 Q Do you have any evidence directly that he knew?</p> <p>3 Like, did he tell you he knew? Did someone tell you</p> <p>4 that he knew?</p> <p>5 A No.</p> <p>6 Q You're just -- what I'm hearing is, you're</p> <p>7 assuming he knew because, based on what you're telling</p> <p>8 me, he overheard conversations about your LCA, which I</p> <p>9 believe you're referring to your last chance agreement,</p> <p>10 correct?</p> <p>11 A That is correct.</p> <p>12 Q And your 2020 EEOC charge?</p> <p>13 A That is correct.</p> <p>14 And it was -- like I said, it was common</p> <p>15 knowledge. It was discussions that would happen</p> <p>16 openly. And at times, I was present for those</p> <p>17 conversations, where I had to tell them, Hey, do not</p> <p>18 discuss my EEOC in the office, in the sergeants'</p> <p>19 office.</p> <p>20 Q Did you have to tell Cosner that?</p> <p>21 A No, I did not tell Cosner that.</p> <p>22 Q Did you hear him discussing it?</p> <p>23 A No.</p> <p>24 Q Okay. You're talking about other sergeants that</p> <p>25 you heard talking about it?</p>	<p style="text-align: right;">Page 112</p> <p>1 A Yes.</p> <p>2 Q Okay. Do you recognize it?</p> <p>3 A Yes.</p> <p>4 Q This is your responses to interrogatories that</p> <p>5 we sent in this case, correct?</p> <p>6 A Yes.</p> <p>7 Q All right. I'm going to scroll down.</p> <p>8 And I presume that's your signature?</p> <p>9 A Yes.</p> <p>10 Q Right? Jessica Salabarria Guasto?</p> <p>11 A Yes.</p> <p>12 Q Okay. And you had it notarized, correct?</p> <p>13 A That is correct.</p> <p>14 Q All right. So you signed these answers under</p> <p>15 oath, correct?</p> <p>16 A Yes.</p> <p>17 Q Okay. I'm going to go to interrogatory</p> <p>18 number 9. I had asked you earlier if you filed your</p> <p>19 2020 EEOC charge after you were placed under</p> <p>20 investigation by internal affairs. And I think you</p> <p>21 wrote in your interrogatory answers: Plaintiff filed</p> <p>22 an EEOC charge in July 2020. Prior to filing her</p> <p>23 complaint in May 2020, the Miami Beach Police</p> <p>24 Department gave plaintiff and her then-husband,</p> <p>25 Nicholas Guasto, notice that they were being</p>
<p style="text-align: right;">Page 111</p> <p>1 A Yes.</p> <p>2 Q Who?</p> <p>3 A A lot of my peers. For instance, Mike Muley</p> <p>4 would speak about it. Jerome Berrian would speak about</p> <p>5 it. Other sergeants, like Frank Del Castillo, would</p> <p>6 talk about it. Just different sergeants would speak</p> <p>7 about it or ask me about it. And I would tell them,</p> <p>8 Hey, I'm not going to discuss that with you, or I can't</p> <p>9 discuss that with you.</p> <p>10 And there were many of times where Cosner was in</p> <p>11 the office and was sitting in back of me when these</p> <p>12 conversations were taking place. Again, I didn't have</p> <p>13 any interaction with him, but if he's in the office, I</p> <p>14 assume that he heard it.</p> <p>15 Q Okay. But you don't know for sure?</p> <p>16 A I mean, he's sitting in back of me, so, again, I</p> <p>17 assume that he heard it. It was loud enough that I</p> <p>18 know that he would be able to hear.</p> <p>19 Q All right. I'm going to show you what I'm going</p> <p>20 to mark as Exhibit 6.</p> <p>21 (Defendant's Exhibit 6 was marked for</p> <p>22 identification.)</p> <p>23 BY MR. ELKINS:</p> <p>24 Q Let me scroll up. Do you recognize this</p> <p>25 document? Are you able to see it, first of all?</p>	<p style="text-align: right;">Page 113</p> <p>1 investigated for being outside the city limits while on</p> <p>2 duty.</p> <p>3 A Okay.</p> <p>4 Q So you filed your EEOC charge after you were</p> <p>5 placed under investigation, correct?</p> <p>6 A That is correct.</p> <p>7 Q Okay.</p> <p>8 A But that has nothing to do with -- with what I</p> <p>9 was being investigated for or the EEOC charge. I had</p> <p>10 -- I had taken multiple steps and opportunities to try</p> <p>11 to get these complaints that I had resolved. And when</p> <p>12 it wasn't getting resolved, when I kept not hearing</p> <p>13 anything from the chief or from the city, I had no</p> <p>14 other choice but to file the EEOC. But it had nothing</p> <p>15 to do with the investigation.</p> <p>16 Q I didn't ask you if it did. All I asked you</p> <p>17 was, did you file the EEOC charge after being placed</p> <p>18 under investigation? And I think the answer to that --</p> <p>19 correct me if I'm wrong -- is you did.</p> <p>20 A That correct. I just wanted to elaborate.</p> <p>21 Q You're free to do so.</p> <p>22 Okay. So at some point, I believe on</p> <p>23 November 2nd, 2020, there was a meeting that you were</p> <p>24 present for regarding both your EEOC charge and the</p> <p>25 pending internal affairs investigation. Do you</p>

<p style="text-align: right;">Page 114</p> <p>1 remember that meeting?</p> <p>2 A Yes.</p> <p>3 Q Did you attend that meeting?</p> <p>4 A Yes.</p> <p>5 Q Okay. And did you have two lawyers at that</p> <p>6 meeting?</p> <p>7 A Yes.</p> <p>8 Q And that was Michael Pancier and Gene Gibbons,</p> <p>9 correct?</p> <p>10 A That is correct.</p> <p>11 Q Do you remember who from the city was at that</p> <p>12 meeting?</p> <p>13 A I remember that Michael Smith was at that</p> <p>14 meeting, from my recollection. I believe Richard</p> <p>15 Clements. And you were present. And I don't recall</p> <p>16 who else was present off the top of my head right now.</p> <p>17 Q A.J., I think, the internal affairs --</p> <p>18 A Yes, that's correct.</p> <p>19 Do you have the document that you're referring</p> <p>20 to?</p> <p>21 Q I'm not referring to any documents.</p> <p>22 A Okay.</p> <p>23 Q Okay. And you understood that that meeting was</p> <p>24 a confidential settlement meeting to discuss your EEOC</p> <p>25 charge and the pending IA investigation, correct?</p>	<p style="text-align: right;">Page 116</p> <p>1 attorney at the time?</p> <p>2 A I was not comfortable with him as my FOP</p> <p>3 attorney at the time.</p> <p>4 Q Why not?</p> <p>5 A Because when I had previously had the issue</p> <p>6 where I got wrongfully demoted, again I expressed that</p> <p>7 I didn't want to settle with these terms. And Gene</p> <p>8 Gibbons was pushing for me to settle with these terms,</p> <p>9 saying that the FOP would not be able to continue to</p> <p>10 fight it or would not -- it was -- it would be in my</p> <p>11 best interest. And I kept telling him that I did not</p> <p>12 agree with the terms of the settlement. However, like</p> <p>13 I stated before, I settled because all I wanted was</p> <p>14 just to be reinstated back to sergeant, and that meant</p> <p>15 more to me than continuing to fight for monies, when</p> <p>16 money wasn't important to me. What was important to me</p> <p>17 was my rank.</p> <p>18 So in that meeting, I didn't feel properly</p> <p>19 represented. I felt like the FOP was working for</p> <p>20 management, and I felt that they didn't do their due</p> <p>21 diligence and their job to stop this meeting, this</p> <p>22 so-called meeting, that turned into an interrogation,</p> <p>23 where they violated my 112 officer bill of rights.</p> <p>24 Q You're referring to the November 2nd, 2020</p> <p>25 meeting?</p>
<p style="text-align: right;">Page 115</p> <p>1 A That is correct.</p> <p>2 Q Okay. You had previously made allegations that</p> <p>3 that meeting turned into an improper 112 interrogation.</p> <p>4 Are you familiar with that?</p> <p>5 A Yes.</p> <p>6 Q Okay. At any point in that meeting, did either</p> <p>7 of your two lawyers stop the meeting and allege that it</p> <p>8 was an improper 112 investigation?</p> <p>9 A No, they did not.</p> <p>10 Q Okay. And correct me if I'm wrong, but wasn't</p> <p>11 the president of the FOP at the time, Kevin Millan,</p> <p>12 present at that meeting?</p> <p>13 A Yes, he was -- he was present.</p> <p>14 Q Did he ever stop the meeting and say, This is an</p> <p>15 improper 112 investigation?</p> <p>16 A Not from what I recall.</p> <p>17 Q And one of your lawyers was your union attorney,</p> <p>18 Eugene Gibbons, correct?</p> <p>19 A That is correct.</p> <p>20 Q And as I understand it -- correct me if I'm</p> <p>21 wrong -- Mr. Gibbons has extensive experience in</p> <p>22 internal affairs matters and 112 interviews; is that</p> <p>23 correct?</p> <p>24 A I don't know that to be true or not.</p> <p>25 Q Okay. Were you comfortable with him as your FOP</p>	<p style="text-align: right;">Page 117</p> <p>1 A Yes.</p> <p>2 Q And so sitting here today, are you continuing to</p> <p>3 allege that your 112 police officer bill of rights were</p> <p>4 violated during that meeting?</p> <p>5 A Yes.</p> <p>6 Q At any point in time in that meeting, did you</p> <p>7 stand up and say, This is an improper meeting?</p> <p>8 A Well, when I tried to let my counsel know what</p> <p>9 was --</p> <p>10 Q Hold on. I don't want to know what you talked</p> <p>11 to your lawyer about.</p> <p>12 A Oh, I'm sorry. I apologize.</p> <p>13 Q Yeah. Don't tell me -- I'm saying this</p> <p>14 respectfully. Do not tell me what your lawyers told</p> <p>15 you. So when I'm asking -- and I should have made this</p> <p>16 clear, so let me clarify for you. I'm talking about</p> <p>17 what happened in that room, the room that you were in</p> <p>18 with your lawyers, plus all the personnel from the</p> <p>19 city. Does that make sense?</p> <p>20 A That makes sense.</p> <p>21 Q Anything you talked to them about privately, do</p> <p>22 not tell me that.</p> <p>23 A Okay.</p> <p>24 Q I'm not asking about it.</p> <p>25 Okay. So let me reask the question.</p>

<p style="text-align: right;">Page 118</p> <p>1 MR. ELKINS: We'll strike from the record the 2 statement "when I told my counsel." Strike that, so 3 that there's no waiver issue. 4 BY MR. ELKINS: 5 Q During the meeting, did you ever speak up in the 6 room, in front of everybody, that it was an improper 7 112 investigation? 8 A No. In the meeting, I was intimidated. I was 9 scared. I didn't know what this meeting was about, 10 because the meeting was presented to me that it was 11 going to be an EEOC meeting where there was going to be 12 a settlement in regards to the EEOC and that all my 13 concerns were going to be heard by the chief and the 14 city. 15 However, when I sat there, they presented on a 16 PowerPoint one still shot from this investigation, and 17 they asked me questions to answer, what was on the 18 PowerPoint, in violation of my due processes and my 112 19 rights. And I didn't want to discuss it. I didn't -- 20 I stayed quiet. And I looked over to my attorney and 21 to the FOP. And I believe that's when we had a break 22 in the meeting, and then from there, we went over to 23 another room and I had discussions with my counsel. 24 Q Don't talk to me about -- 25 A I'm not. I'm not. I'm just saying what</p>	<p style="text-align: right;">Page 120</p> <p>1 sitting in the room, on a laptop, writing I don't know 2 what type of notes, that were never presented to me, 3 again in violation of my due process. And they're 4 asking me to answer questions of something that -- a 5 document that I haven't even reviewed. And so, yeah, I 6 was misrepresented. 7 And, again, I strongly believe that at the time, 8 the FOP and Gene Gibbons was more on management's side, 9 more than on my side. They didn't protect me. 10 Q Did you take any action against the FOP, Gene, 11 or your private lawyer, Michael Pancier? 12 A No, I did not. 13 Q You didn't file a ULP against the FOP? 14 A No, I did not, because I had no knowledge of 15 what to do or how to do it. Again, I was scared. I 16 felt intimidated. I felt -- I'm in a room full of all 17 these men and with all this authority, and I'm 18 basically left in this meeting out to dry. Nobody's 19 speaking up, when there's clear violations. 20 Q Well, to be fair, you're saying you were left in 21 this room, but you did have two lawyers and the 22 president of the FOP there on your behalf, correct? 23 A That is correct. 24 Q And one of those lawyers you hired on your own. 25 That's Michael Pancier, correct?</p>
<p style="text-align: right;">Page 119</p> <p>1 happened. 2 Q There were multiple breaks during that meeting, 3 correct? 4 A Yes. 5 Q Okay. And at any point in time during the 6 display of the PowerPoint, did either of your lawyers 7 object to any questioning about what was going on with 8 the PowerPoint? 9 A They did not. And that's what was so concerning 10 to me, was the fact that they did not. And there is a 11 clear violation of my 112 by this PowerPoint, and 12 nobody is saying anything to defend me or to uphold my 13 officer bill of rights. 14 Q And at any point in time, did the president of 15 the FOP interject and say, This is an improper 16 investigation, during the PowerPoint? 17 A No, he did not. 18 Again, I felt like I was being misrepresented. 19 I felt that they -- but when I say "they," the city and 20 the chief made it seem like this meeting was to discuss 21 the EEOC and to discuss my concerns. And the meeting 22 invite said it was going to be a meeting invite for a 23 settlement and to discuss the EEOC. 24 And when I get there, I'm blindsided by this 25 PowerPoint that was presented, with internal affairs</p>	<p style="text-align: right;">Page 121</p> <p>1 A So the attorney that I hired was recommended by 2 Gene Gibbons, who told me he cannot file the EEOC, so 3 he asked me to -- 4 Q Hold on. 5 A Oh, I'm sorry. I'm so sorry. 6 Q Let's strike any commentary about what Gene 7 Gibbons told her -- told you. 8 MR. ELKINS: I'm sorry. Can you read back my 9 question. 10 (The requested portion of the record was 11 read back by the reporter as above 12 recorded.) 13 BY MR. ELKINS: 14 Q So let me clarify that question, to maybe help 15 you be able to answer it without revealing anything 16 that might be privileged. 17 A Thank you. 18 Q Gene Gibbons is a lawyer provided to you by 19 virtue of your prior membership in the FOP, correct? 20 A That is correct. 21 Q He's the FOP's counsel, correct? 22 A That is correct. 23 Q And you don't have to pay for him -- 24 A That is correct. 25 Q -- right?</p>

<p style="text-align: right;">Page 122</p> <p>1 Since your FOP dues and that type of thing?</p> <p>2 A That is correct.</p> <p>3 Q But Michael Pancier was not through the FOP.</p> <p>4 That was a lawyer that you, Jessica Salabarria, engaged</p> <p>5 separate on your own. Correct?</p> <p>6 A That is not correct.</p> <p>7 Q Okay.</p> <p>8 A I mean, it is --</p> <p>9 Q Explain that.</p> <p>10 A -- it is correct in a way, because I was the one</p> <p>11 who hired him. However, I was advised to do so and --</p> <p>12 Q Don't tell me what you were advised to do.</p> <p>13 A Okay.</p> <p>14 Q The fact is, you hired him on your own?</p> <p>15 A Yes.</p> <p>16 Q That's what matters.</p> <p>17 A Yes.</p> <p>18 Q Okay. And is it fair to say that Gene was your</p> <p>19 labor lawyer and Michael Pancier was your employment</p> <p>20 lawyer, your private employment discrimination lawyer?</p> <p>21 A Yes. Pancier was for the EEOC.</p> <p>22 Q And Gene was for the internal affairs</p> <p>23 investigation and things of that nature?</p> <p>24 A That is correct.</p> <p>25 Q So if you weren't expecting there to be any</p>	<p style="text-align: right;">Page 124</p> <p>1 Q Why -- when your former attorney, Jason Kuno,</p> <p>2 was presented with allegations that you recorded the</p> <p>3 meeting, why didn't you just have your lawyer refute</p> <p>4 them?</p> <p>5 A I don't know what my lawyer did in his responses</p> <p>6 to the city, but I do know that I read several</p> <p>7 documentations where he said there is no recording.</p> <p>8 And I believe that was also discussed through my</p> <p>9 counsel at the moment.</p> <p>10 Q Mr. Kuno?</p> <p>11 A No. My current one as well.</p> <p>12 Q I don't want to know what you talk about with</p> <p>13 your current counsel.</p> <p>14 Okay. And so, eventually, after the meeting,</p> <p>15 you're familiar that the parties -- the parties, the</p> <p>16 city and your lawyers, engaged in some settlement</p> <p>17 discussions? Do you remember that?</p> <p>18 A Yes.</p> <p>19 Q Okay. And those settlement discussions resulted</p> <p>20 in two documents, a settlement agreement and a last</p> <p>21 chance agreement, correct?</p> <p>22 A So on the day of the meeting where they</p> <p>23 discussed settlements, which -- which was with the</p> <p>24 chief present and the HR director -- you were in there</p> <p>25 as well -- again, like you noted, the people that were</p>
<p style="text-align: right;">Page 123</p> <p>1 discussions about the internal affairs investigation,</p> <p>2 why would Gene need to be there?</p> <p>3 A So that's exactly my point. I was told that</p> <p>4 this meeting was going to be EEOC-related and it was</p> <p>5 going to be to discuss my concerns with the behavior</p> <p>6 that was going on in the police department with all of</p> <p>7 my lieutenants, the lieutenants that I named in the</p> <p>8 EEOC, and the behavior that I discussed in the EEOC.</p> <p>9 And when I get there, that was not the case. It</p> <p>10 was -- it turned into an interrogation, and they never</p> <p>11 discussed the EEOC. They never discussed any of my</p> <p>12 accusers -- any of the accusers that I put on the EEOC.</p> <p>13 They never spoke about the behavior that was going on.</p> <p>14 They stopped me from speaking about the behavior that</p> <p>15 was going on. Specifically, the chief said, We're not</p> <p>16 doing that here. And so -- and so at some point after</p> <p>17 the PowerPoint was presented and I refused to speak</p> <p>18 about the PowerPoint, because I knew something was</p> <p>19 wrong, that's when we took a break and the meeting</p> <p>20 was -- was -- was paused at the moment.</p> <p>21 Q Did you record the meeting?</p> <p>22 A No, I did not.</p> <p>23 Q You didn't leave a phone in the room recording</p> <p>24 anything?</p> <p>25 A No, I did not.</p>	<p style="text-align: right;">Page 125</p> <p>1 in the meeting, they said a settlement agreement was</p> <p>2 presented to my side through the FOP. But they never</p> <p>3 specifically said what the settlement agreement would</p> <p>4 be and that they would later on a later date let me</p> <p>5 know what the settlement entailed. It was vague.</p> <p>6 There was no type of indication that the settlement</p> <p>7 agreement would include any type of LCA. In fact,</p> <p>8 while I was sitting there, I didn't want to agree to a</p> <p>9 settlement agreement. However, I was told that if I</p> <p>10 didn't agree to the settlement agreement, that I would</p> <p>11 be terminated, based on the PowerPoint that was</p> <p>12 presented on the big screen.</p> <p>13 Q Who told you that?</p> <p>14 A You did.</p> <p>15 Q I told you that?</p> <p>16 A Yes.</p> <p>17 Q What did I say?</p> <p>18 A You said, The city does not want you here,</p> <p>19 you're not a good fit for the city, and the city's not</p> <p>20 a good fit for you, and so it would be best right now</p> <p>21 for you to settle; and if you don't agree, what's on</p> <p>22 the PowerPoint up there right now is going to lead to</p> <p>23 you being terminated, and if you don't agree to that</p> <p>24 settlement, you're going to be terminated.</p> <p>25 And that was said in front of everybody else</p>

<p style="text-align: right;">Page 126</p> <p>1 that was present in that meeting. And when I tried to 2 speak about the behavior that was occurring, there was 3 a comment that was mentioned that, So what if officers 4 and sergeants view porn in the office, they're a bunch 5 of cops, not choir boys. 6 And that was said in front of me, in my 7 presence, which was absolutely -- it was -- it was so 8 offensive and so hurtful to hear that being said in 9 front of everybody, to be said, So what if officers 10 watch porn, they're a bunch of police officers, not 11 choir boys. It was the most offensive and derogatory 12 term that I heard in that meeting. And I knew then and 13 there that there was no interest of listening to any of 14 my concerns and listening to any of my EEOC complaints. 15 And this was all about trying to get me to settle with 16 the city and to settle into -- agreeing into a 17 settlement agreement, that was not presented to me on 18 what the settlement terms would be, just that if I 19 didn't agree, I would be terminated based on the 20 PowerPoint. 21 Q And I told you that? 22 A That -- yes. 23 Q Did your lawyers object when I supposedly said 24 this? 25 A They did not.</p>	<p style="text-align: right;">Page 128</p> <p>1 made counterproposals, correct? 2 A That is correct. 3 Q So the settlement agreement and last chance 4 agreement that you ultimately signed was the product of 5 negotiation between your representatives and the city, 6 correct? 7 A That is correct. 8 Q Okay. So I'm showing you what I'm marking as 9 Exhibit 7, which you should have up on your screen. 10 (Defendant's Exhibit 7 was marked for 11 identification.) 12 BY MR. ELKINS: 13 Q Can you see it? 14 A I see a settlement agreement. 15 Q Okay. 16 A The first page? 17 Q Yes. 18 And this relates to EEOC charge 19 number 510-2020-04794, which is the 2020 EEOC charge. 20 And then if I scroll down here, this has some 21 terms about you paying back some money to the city, 22 taking a suspension. 23 This is the settlement agreement that resulted 24 from that November 2nd meeting and then further 25 negotiations, correct?</p>
<p style="text-align: right;">Page 127</p> <p>1 Q Did the president of the FOP object when I 2 supposedly said this? 3 A They did not. Again, that's why I believe that 4 the FOP was not working for me but more so for 5 management. 6 Q So I think what my question was -- and I 7 appreciate that answer -- was that after the meeting, 8 there were settlement discussions between the city and 9 your lawyers. Is that accurate or not? 10 A All that was told was, Let's do a settlement, 11 the terms of the settlement are not -- we don't know 12 what the terms are going to be, but we will let you 13 know. 14 And, again, it was based on the fact that if I 15 didn't agree to the settlement, that I would be 16 terminated based on the PowerPoint. 17 Q You were not presented the terms of any 18 settlement agreement at the November 2nd meeting, were 19 you? 20 A No. 21 Q The terms of -- and any negotiations of a 22 settlement were between the city and your lawyers, 23 correct? 24 A That is correct. 25 Q The city made proposals, and then your lawyers</p>	<p style="text-align: right;">Page 129</p> <p>1 A That is correct. 2 Q Okay. And you did sign this, didn't you? 3 A That is correct. 4 Q And you can -- I can see it's initialed on each 5 page. Are these your initials on each page? 6 A That is correct. 7 Q Okay. And is that your signature -- 8 A That is correct. 9 Q -- on the settlement agreement? 10 And then there's a last chance agreement, right? 11 A That is correct. 12 Q And is that your signature -- I'm going to 13 scroll down the pages, but is that your signature on 14 each page? 15 A Yes. 16 Q Okay. And then the last chance agreement, 17 that's your signature, correct? 18 A That is correct. 19 Q Okay. And going through the terms here, 20 starting on page 1 and going to page 2, you ultimately 21 agreed to take a 160-hour suspension, correct? 22 A That is correct. 23 Q You agreed to pay back 86 total hours of time, 24 split up. I think 44 was regular time and 24 was 25 overtime. Correct?</p>

<p style="text-align: right;">Page 130</p> <p>1 A That is correct.</p> <p>2 Q And so I think the total amount you were paying</p> <p>3 the city was \$3,531.20, correct?</p> <p>4 A That is correct.</p> <p>5 Q And you paid that to the city?</p> <p>6 A Yes.</p> <p>7 Q Okay. So unlike many settlement agreements, the</p> <p>8 city didn't pay you anything; you paid the city?</p> <p>9 A That is correct.</p> <p>10 Q Okay. You agreed to execute the last chance</p> <p>11 agreement, correct?</p> <p>12 A That is correct.</p> <p>13 Q You agreed to delete your podcast Cafecitos -- I</p> <p>14 can't pronounce the full name, but it's --</p> <p>15 A Cafecitos y Chisme with Nick & Jess.</p> <p>16 Q You agreed to delete that, correct?</p> <p>17 A Yes.</p> <p>18 So when it came to the last chance agreement and</p> <p>19 the settlement agreement, I did not want to agree to</p> <p>20 any settlement agreement or any last chance agreement.</p> <p>21 Again, I can't discuss what I spoke with my counsel,</p> <p>22 but I do have information that -- that proves what --</p> <p>23 what I wanted in lieu of the settlement agreement,</p> <p>24 which did not include a last chance agreement or a</p> <p>25 settlement agreement. The city went back and forth</p>	<p style="text-align: right;">Page 132</p> <p>1 A That is correct.</p> <p>2 Q Did he advise you to sign this?</p> <p>3 A Yes, he did. And I kept telling him that I</p> <p>4 didn't want to sign it, that I was scared that as soon</p> <p>5 as I signed, I was going to be terminated. And that's</p> <p>6 exactly what happened. On my first day back after</p> <p>7 signing this agreement, Lieutenant Cosner made these</p> <p>8 allegations against me, on my very first day, on the</p> <p>9 only day that I've ever worked for him as -- in a</p> <p>10 subordinate position. And he writes these allegations,</p> <p>11 and this LCA was implemented.</p> <p>12 Q Did anyone force you to sign this?</p> <p>13 A I felt forced.</p> <p>14 Q Why?</p> <p>15 A Because in the settlement meeting that was an</p> <p>16 interrogation, I felt like I had no other choice but to</p> <p>17 get -- but to agree to a settlement, because I was</p> <p>18 being threatened with termination.</p> <p>19 Q The interrogation that the FOP president, your</p> <p>20 labor lawyer, and your private attorney -- the</p> <p>21 interrogation that none of them objected to?</p> <p>22 A That is correct. But that's how I felt and</p> <p>23 that's -- and, again, nobody at that point stood up for</p> <p>24 me or guided me in the right way, and my concerns were</p> <p>25 left unheard. And I didn't want to go through a</p>
<p style="text-align: right;">Page 131</p> <p>1 with my representatives, and I was told that if I</p> <p>2 didn't agree to the settlement agreement --</p> <p>3 MR. DARAGJATI: Hold on a second. Do not talk</p> <p>4 about --</p> <p>5 THE WITNESS: Okay.</p> <p>6 MR. DARAGJATI: -- conversations you had with</p> <p>7 Gene or with Pancier.</p> <p>8 THE WITNESS: Okay.</p> <p>9 MR. DARAGJATI: Do you understand?</p> <p>10 THE WITNESS: Yes.</p> <p>11 BY MR. ELKINS:</p> <p>12 Q Do you have anything else that you could testify</p> <p>13 to that would not -- on this topic, that would not</p> <p>14 involve your conversations with your counsel?</p> <p>15 A Not -- correct. No. Just that I didn't want to</p> <p>16 sign this agreement and -- I wanted to take this --</p> <p>17 this case to internal affairs, and I didn't want to</p> <p>18 agree to a settlement agreement. And I felt like I had</p> <p>19 no other choice.</p> <p>20 Q And you didn't want to agree to the first</p> <p>21 settlement agreement you signed, correct?</p> <p>22 A That is correct.</p> <p>23 Q And you were also being advised by the FOP</p> <p>24 president as to this settlement agreement and last</p> <p>25 chance agreement, correct?</p>	<p style="text-align: right;">Page 133</p> <p>1 settlement. I wanted to go through my due processes</p> <p>2 and through my officer bill of rights and -- that's</p> <p>3 what I wanted, to -- to go through the process, just</p> <p>4 like everybody else, and not have to go through a</p> <p>5 settlement agreement, because I knew what was going to</p> <p>6 happen. And ultimately, it did.</p> <p>7 Q Then why did you sign it?</p> <p>8 A Again, I was scared. I was scared, because I</p> <p>9 was being told in this meeting, in front of everybody,</p> <p>10 that if I didn't agree to it, I was going to get</p> <p>11 terminated.</p> <p>12 Q Well, you weren't presented this settlement</p> <p>13 agreement at the November -- hold on. You were not</p> <p>14 presented this settlement agreement at the November 2nd</p> <p>15 meeting, were you?</p> <p>16 A No.</p> <p>17 Q You were not presented any of these terms at the</p> <p>18 November 2nd meeting?</p> <p>19 A No.</p> <p>20 MR. ELKINS: Let's take a break for two</p> <p>21 minutes. Let's go off the record.</p> <p>22 THE VIDEOGRAPHER: The time is 1:04 p.m. We're</p> <p>23 going off the record.</p> <p>24 (A break was taken from 1:04 p.m. to</p> <p>25 2:58 p.m.)</p>

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1 THE VIDEOGRAPHER: The time is 2:58 p.m. We're
2 back on the record.
3 MR. ELKINS: So we've agreed, between the
4 lawyers, that we're going to suspend the deposition.
5 It's been rescheduled via Zoom for February 13th at
6 10:00 a.m.
7 I'll remind the witness that she's still in the
8 deposition, so she can't discuss her testimony with
9 counsel during the suspension.
10 And we will reconvene February 13th via Zoom.
11 Anything else, Paul?
12 MR. DARAGJATI: No. That encapsulates the
13 agreement.
14 Do you have a time when you want to do it?
15 MR. ELKINS: 10:00 a.m.
16 MR. DARAGJATI: 10:00 a.m.? Okay. That's
17 fine. Okay. Very good.
18 MR. ELKINS: Okay. Thank you.
19 THE VIDEOGRAPHER: Before we get off the video
20 record, are there any video orders today?
21 MR. DARAGJATI: Not from the plaintiff.
22 MR. ELKINS: Not from the city, no.
23 THE VIDEOGRAPHER: All right.
24 THE COURT REPORTER: Any record, transcript?
25 MR. ELKINS: No, I'm not going to order yet.

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1 MR. DARAGJATI: No, ma'am.
2 THE VIDEOGRAPHER: That concludes today's
3 testimony given by Ms. Jessica Guasto. The time is
4 now 3:00 p.m., and we are going off the record.
5 (Thereupon, the deposition was adjourned
6 at 3:00 p.m.)
7
8 EXCEPT FOR ANY CORRECTIONS
9 MADE ON THE ERRATA SHEET BY ME,
10 I CERTIFY THIS IS A TRUE AND
11 ACCURATE TRANSCRIPT. FURTHER
12 DEPONENT SAYETH NOT.
13
14 _____
15 WITNESS' NAME
16
17 STATE OF FLORIDA)
18) SS:
19 COUNTY OF MIAMI-DADE)
20
21 Sworn and subscribed to before me this ____ day
22 of ____ 2024.
23 PERSONALLY KNOW _____ OR I.D.
24 _____
25 _____

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1 Notary Public in and for the State of Florida at
2 Large.
3 My commission expires: July 20, 2025
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1 ERRATA SHEET
2 RE : Jessica Guasto v. City of Miami Beach
3 DEPO OF: Jessica Guasto
4 TAKEN : February 6, 2024
5 ASSG# : 633790
6 DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE
7 Page # | Line # | Change | Reason
8 _____
9 _____
10 _____
11 _____
12 _____
13 _____
14 _____
15 _____
16 State of Florida) _____
17 County of) Notary Public
18 Under penalties of perjury, I declare that I have read
19 my deposition transcript, and it is true and correct
20 subject to any changes in form or substance entered
21 here.
22 _____
23 Date Signature
24
25

<p style="text-align: right;">Page 138</p> <p>1 2 3 CERTIFICATE OF OATH 4 5 6 STATE OF FLORIDA: 7 : SS 8 COUNTY OF DADE: 9 10 I, Marlene Gutierrez, Shorthand Reporter and 11 Notary Public, State of Florida, certify that JESSICA 12 GUASTO appeared before me on the 6th day of February, 13 2024, and was duly sworn. 14 15 WITNESS my hand and official seal this 14th day 16 of February, 2024. 17 18  19 20 Marlene Gutierrez 21 Notary Public-State of Florida 22 My Commission #GG126375 23 Expires: July 20, 2025 24 25 Personally known_____ 26 Or Produced Identification_____ 27 Type of Identification Produced_____ 28 29</p>	<p style="text-align: right;">Page 140</p> <p>1 VERITEXT FLORIDA REPORTING COMPANY 2 2 South Biscayne Boulevard 3 Suite 2250 4 Miami, Florida 33131 5 (305) 371-1884 6 (305) 377-1100 (fax) 7 8 February 13, 2024 9 10 Jessica Guasto 11 EMAIL: paul@daragjatilaw.com 12 RE : Jessica Guasto Vs. City of Miami Beach 13 DEPO OF: Jessica Guasto 14 TAKEN : February 6, 2023 15 Number of pgs: 136 16 17 The above-referenced transcript is available for 18 review. 19 20 JESSICA GUASTO should read the testimony to 21 verify its accuracy. If there are any changes, JESSICA 22 GUASTO should note those with the reason on the 23 attached Errata Sheet. 24 JESSICA GUASTO should, please, date and sign the 25 Errata Sheet and email to the deposing attorney as well 26 as to Veritext at Transcripts-fl@veritext.com and 27 copies will be email to all ordering parties. 28 29 It is suggested that the completed errata be 30 returned 30 days from receipt of testimony, as 31 considered reasonable under Federal rules*, however, 32 there is no Florida statute to this regard. 33 If the witness fails to do so, the transcript may be 34 used as if signed. 35 36 Yours, 37 Veritext Legal Solutions 38 39 40 41</p>
<p style="text-align: right;">Page 139</p> <p>1 REPORTER'S DEPOSITION CERTIFICATE 2 3 4 STATE OF FLORIDA: 5 : SS 6 COUNTY OF DADE: 7 8 I, Marlene Gutierrez, Notary Public, certify 9 that I was authorized to and did stenographically 10 report the deposition of JESSICA GUASTO; that a review 11 of the transcript was requested; and that the 12 transcript is a true and complete record of my 13 stenographic notes. 14 15 I further certify that I am not a relative, 16 employee, attorney, or counsel of any of the parties, 17 nor am I financially interested in the action. 18 19 Dated this 14th day of February, 2024. 20  21 22 MARLENE GUTIERREZ 23 24 25</p>	<p style="text-align: right;">Page 141</p> <p>1 VERITEXT FLORIDA REPORTING CO. 2 2 South Biscayne Boulevard, #2250 3 Miami, Florida 33131 4 (305) 376-8800 5 6 February 13, 2024 7 8 MICHAEL L. ELKINS, ESQ. 9 MLE Law 10 1212 Northeast 16th Terrace 11 Fort Lauderdale, Florida 33304 12 melkins@mlelawfirm.com 13 14 RE: Jessica Guasto vs. City of Miami Beach 15 DEPO OF: Jessica Guasto 16 TAKEN: February 6, 2024 17 18 Dear Counsel: 19 The original transcript of the deposition listed above 20 is enclosed for your file. The witness did not waive 21 reading and signing and has been sent a letter 22 notifying them to read and sign their deposition 23 transcript. 24 The witness will be provided a copy of their deposition 25 transcript for reading, and we will forward to you any 26 corrections made by the witness at that time, along 27 with an original signature page which should be 28 attached to the original transcript which is in your 29 possession. 30 Sincerely, 31 32 Marlene Gutierrez 33 34 35 36</p>

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FLORIDA RULES OF CIVIL PROCEDURE

Rule 1.310

(e) Witness Review. If the testimony is transcribed, the transcript shall be furnished to the witness for examination and shall be read to or by the witness unless the examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness wants to make shall be listed in writing by the officer with a statement of the reasons given by the witness for making the changes. The changes shall be attached to the transcript. It shall then be signed by the witness unless the parties waived the signing or the witness is ill, cannot be found, or refuses to sign. If the transcript is not signed by the witness within a reasonable time after it is furnished to the witness, the officer shall sign the transcript and state on the transcript the waiver, illness, absence of the witness, or refusal to sign with any reasons given therefor. The deposition may then be used as fully as though signed unless the court holds that the reasons given for the refusal to sign require rejection of

the deposition wholly or partly, on motion under
rule 1.330(d)(4).

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF FLORIDA
3 MIAMI DIVISION
4 CASE NO.:1:22-cv-21004-DPG
5 JESSICA GUASTO,
6 PLAINTIFF,
7 VS.
8 THE CITY OF MIAMI BEACH, FL,
9 A FLORIDA MUNICIPALITY,
10 DEFENDANT.

11 VOLUME 2 (PAGES 142-177)
12 CONTINUED VIDEO
13 DEPOSITION OF: JESSICA (GAUSTO) SALABARRIA
14 DATE: FEBRUARY 13, 2024
15 TIME: 10:14 A.M. - 11:11 A.M.
16 PLACE: VIA ZOOM REMOTE CONFERENCING
17 REPORTED BY: TAMARA MASCI TANNEN, RPR, FPR-C
18 STENOGRAPHIC COURT REPORTER
19 NOTARY PUBLIC, STATE OF FLORIDA
20
21
22
23
24
25

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13 ALSO PRESENT:
14 ERICK CLAVIJO, VIDEOGRAPHER, COASTAL VIDEO
15

16 * * * * *
17 S T I P U L A T I O N S
18

19 It is hereby stipulated and agreed by and
20 between counsel for the respective parties, and the
21 deponent, that the reading and signing of the deposition
22 are hereby waived.
23
24
25

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1 P R O C E E D I N G S
2 * * * * *
3 THE VIDEOGRAPHER: We're now on the video record.
4 Today is Tuesday, the 13th day of February, 2024. The
5 time is approximately 10:14 A.M.
6 And we are conducting a deposition conference via
7 Zoom for the purpose of taking the video deposition of
8 Jessica Guasto taken by the Plaintiff in the matter of
9 -- in case number 122-CV-21004-DPG. And the case is
10 Jessica Guasto versus the City of Miami Beach, Florida,
11 which is filed in the U.S. District Court of the
12 Southern District of Florida, Miami Division.
13 The court reporter is Tamara Masci Tannen from
14 Coastal Reporting. My name is Erick Clavijo. I am the
15 videographer on behalf of Coastal Video. I am not
16 related to any party on this action, nor am I
17 financially interested in the outcome.
18 Would all counsel please state their appearances
19 for the record, after which the court reporter will
20 swear in the witness.
21 MR. DARAGJATI: My name is Paul Daragjati. With
22 me is my associate Rose Daragjati. We represent the
23 Plaintiff, Jessica Guasto, who is also present.
24 MR. ELKINS: Michael Elkins on behalf of the
25 Defendant, City of Miami Beach.

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1 THE REPORTER: Jessica, raise your right hand,
2 please. Do you swear that the testimony you are about
3 to give will be the truth, the whole truth, and nothing
4 but the truth so help you God?

5 THE WITNESS: Yes.

6 THE REPORTER: Thank you. You may proceed.

7 JESSICA GAUSTO SALABARRIA,

8 Having been first duly sworn, testified as follows:

9 MR. ELKINS: Okay. Tammy, I'm going to refer to
10 Jessica as Ms. Salabarría, which is her -- she had her
11 last name changed recently. So to avoid any confusion
12 just so you know when we refer to Ms. Salabarría, it's
13 Ms. -- also Jessica. Does that make sense?

14 THE REPORTER: Yes.

15 DIRECT EXAMINATION

16 BY MR. ELKINS:

17 Q. Okay. Ms. Salabarría, this is continuation of
18 your deposition from February 6th. Do you remember all the
19 rules that we went over at that deposition?

20 A. Yes.

21 Q. Okay. And you understand that you're still under
22 oath, correct?

23 A. Yes.

24 Q. Did you talk to anybody about that deposition?

25 A. No.

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1 knowledge about any of the facts in this lawsuit. Do you
2 see that?

3 A. Yes.

4 Q. Okay. Let me ask you this: What is your
5 understanding of the current claims that you have against
6 the City?

7 A. So my current claims that is my understanding is
8 that it's for retaliation for -- for filing an EEOC and for
9 being retaliated against by filing that EEOC, and then
10 subsequently after settling with the City, I was fired,
11 terminated, separated from the City on my first day back;
12 and therefore, that's where the retaliation charge is.

13 Q. And so, your claim is, so I understand it, that
14 you -- you understand that for retaliation, you have to have
15 engaged in some sort of protected activity and then the City
16 fired you for engaging in that protected activity. You
17 understand that, right?

18 A. Yes.

19 Q. And in this case, the protected activity that you
20 claim forms the basis of your retaliation is the 2020 EEOC
21 charge; do I have that right?

22 A. Yes.

23 Q. Okay. And your position in this lawsuit is that
24 the City fired you because you filed that EEOC charge,
25 correct?

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1 Q. Did you talk to your lawyer about it?

2 A. No.

3 Q. Okay. And nobody else?

4 A. No.

5 Q. Okay. I think where we had left off in that
6 deposition was we were talking about your 2020 -- I think
7 July 2020 EEOC charge. Do you remember that?

8 A. Yes.

9 Q. Okay. I'm going to go through a few other things
10 here before we get back to that. So I'm going to show
11 you --

12 A. Excuse me.

13 Q. -- hold on. Okay. I'm showing you what we had
14 marked as Exhibit 6. Do you see this document?

15 A. Yes. I can see it.

16 Q. Okay. And this was your responses to the City's
17 interrogatories?

18 A. Yes.

19 Q. And I don't remember if we did this before, so I'm
20 going to do it now. Did you -- is that your signature on
21 these?

22 A. Yes.

23 Q. Okay. So I want to go through these this morning.
24 So we had asked you to list a number of witnesses: Names,
25 addresses, emails address, of people who would have

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1 A. Yes.

2 Q. Okay. And that EEOC charge was in I think July of
3 2020, correct?

4 A. That is correct.

5 Q. And then you were fired in January of 2021, right?

6 A. Yes.

7 Q. So about seven -- give or take a few weeks, but
8 approximately seven months later?

9 A. Yes. However, there wasn't -- the settlement for
10 that EEOC wasn't settled until sometime in December. So it
11 was -- it wasn't that it was settled in June or July. It
12 was -- it was settled within December. And then, subsequent
13 to that, the very next month after settling, my very first
14 day back, Lieutenant Cosner, he filed these baseless
15 unsubstantiated allegations. And from there, I was
16 separated from the City my very first day back.

17 Q. What's the significance of settlement relative to
18 your claims of retaliation? Why is that -- why does that
19 matter to you?

20 A. Well, because at the time Chief Clements was very
21 adamant through -- through proxy through Nicholas Guasto and
22 the FOP to -- to have me get rid of the -- the EEOC. And he
23 was having backdoor conversations with Nicholas and asking
24 him to have me get rid of the EEOC and that that would be
25 the only way to settle, to have me settle with the City.

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1 And he was very adamant about that EEOC being withdrawn.
 2 And then, during my settlement meeting, when I was
 3 supposed to go in there and speak on -- on the issues that I
 4 was having that was -- that it was written on the EEOC, we
 5 never got into any of those claims. We never -- the --
 6 Chief Clements never spoke to me, didn't ask me questions
 7 about my concerns. So to me, his main motivation was to get
 8 that EEOC withdrawn and to have me settle.

9 And then, subsequent to there, the first chance
 10 that they took -- the City took to get me terminated to get
 11 me separated was my very first day back.

12 And that's why it's significant to me, the -- the
 13 timing of it, the baseless allegations that Lieutenant
 14 Cosner wrote that were never investigated, were never
 15 substantiated. And I got separated on allegations. It's --
 16 that's why I -- I believe it's significant.

17 Q. So you believe that the City never investigated
 18 Lieutenant Cosner's allegations; did I hear that right?

19 A. That is correct.

20 Q. Were they required to?

21 A. Yes, they were.

22 Q. Weren't you an employee at-will after your Last
 23 Chance Agreement?

24 MR. DARAGJATI: Object to form.

25 BY MR. ELKINS:

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1 at-will or not, there has to be an investigation. There has
 2 to be a --

3 Q. Are you sure about that?

4 A. Yes, through my Officer Bill of Rights. And --

5 Q. And did --

6 A. -- that wasn't done.

7 Q. And at any point in time -- so it sounds like
 8 you're very well-versed in the Police Officer Bill of
 9 Rights.

10 At any point in time, did you take advantage of
 11 the administrative mechanisms in there to complain that your
 12 Police Officer Bill of Rights were violated?

13 A. I did. So I was brought to this meeting that was
 14 on January 19th. It was labeled as an invite from the
 15 Chief's secretary. I had no idea what this invite, this
 16 meeting entailed. It just said an invite. When I get
 17 there, it's the Chiefs -- Chief Clements, the command staff,
 18 the Internal Affairs commander, AJ Prieto, and then I see
 19 Cosner there, as well as the FOP that was already there
 20 summoned by the -- the Chief of Police.

21 So I asked what this meeting was about. And
 22 Reggie Lester told me it was about an allegation. Again, I
 23 had no idea what this meeting was about. He wasn't very
 24 shared what it was about, just that it was an investigation
 25 -- an allegation, I'm sorry.

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1 Q. You can answer.

2 A. Does that mean I -- I answer?

3 Q. Yes.

4 MR. DARAGJATI: Yes, you can answer.

5 THE WITNESS: Okay. So my Last Chance Agreement,
 6 if you read it, on my Last Chance Agreement, it doesn't
 7 say anything about waiving my Officer Bill of Rights,
 8 nor do -- does it say anything about me waiving any of
 9 my due processes or any of the City's policies and SOPs
 10 concerning my due processes.

11 So from my understanding of the LCA, I never
 12 waived my statutory Officer Bill of Rights, nor did I
 13 waive any of my due process rights. And also, the --
 14 the LCA is very ambiguous; it's not specific. It
 15 doesn't state specifics. It only says you can't
 16 arbitrate and you can't grieve. But it does not say
 17 anywhere on that LCA that I waive any of my Officer
 18 Bill of Rights.

19 BY MR. ELKINS:

20 Q. You understand that there's a difference between
 21 what the police officer -- the protections of the Police
 22 Officer Bill of Rights and whether or not the City has to
 23 show just cause to terminate you; you -- you understand
 24 those are two completely different things?

25 A. So what I understand is that no matter if I'm

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1 And so, I told him I do not want to go into that
 2 meeting. This is discipline in nature. It looks like
 3 discipline in nature. Why is the Internal Affairs commander
 4 in this meeting? And he went to Richard Clements and told
 5 Richard Clements that I was not going to go -- I did not
 6 want to participate in this meeting without an attorney.
 7 And so, Richard Clements relayed to Reggie Lester that if I
 8 didn't attend this meeting, that I would be terminated right
 9 there on the spot.

10 And at that point, I was terrified that I was
 11 going to be terminated. And so, I sat in the meeting.
 12 However, I didn't want to answer any of the questions. And
 13 again, I had asked for my representative of my choice to be
 14 in this meeting, which was denied several times.

15 Q. You had actually four -- three or four members of
 16 the FOP in that meeting, isn't that true?

17 A. Like I stated, the FOP was summoned by the Chief,
 18 not by me. I did not ask for any of those members of the
 19 FOP to be there.

20 Q. That's not my question. My question is: They
 21 were there. Yes or no?

22 A. Yes, they were there summoned by the Chief of
 23 Police.

24 Q. I'm not asking you --

25 A. And my --

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1 Q. -- who summoned who. My question is -- and it's a
2 yes or no question -- were there three or four members of
3 the FOP present at this meeting?

4 A. Yes.

5 Q. And one of them was the president of the FOP,
6 correct?

7 A. That is correct.

8 Q. And the other members were the executive board
9 members of the FOP, correct?

10 A. That is correct.

11 Q. Okay. At any point in that meeting, did any of
12 your FOP representatives -- and you're referring to the
13 meeting prior, just before your separation from employment,
14 correct?

15 A. Yes.

16 Q. Okay. At any point in time, did you or any member
17 of the FOP allege or take advantage of the procedures in
18 Florida Statute Section 112.534, which I'm assuming you're
19 familiar with since you seem to know your Police Officer's
20 Bill of Rights and how they apply. Did that happen?

21 A. So again, I was in this meeting and I refused to
22 answer. And I didn't want to participate in this meeting.
23 And I asked for my representative of choice, which was for
24 an attorney to be present. And I was told that I could not
25 leave the meeting, that I had to continue in this meeting,

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1 gave a direct order and said that if we did not participate
2 in this meeting, I was going to be terminated. That is my
3 answer.

4 Q. And did -- at any point in time after that then,
5 did the agent -- did you or the FOP request that the Chief
6 or that their designee cease the interview?

7 A. Yes, they did. And again, Richard Clements said
8 this meeting was going to continue.

9 Q. And how come nobody after the meeting or --

10 Or let me ask you this: After the meeting did
11 anybody file a grievance or anything against the City for
12 violating your 112 rights?

13 A. There was a grievance that was written, not
14 directly after the meeting, but it was -- there was a
15 grievance that was conducted by John Kuno who was my
16 previous counsel.

17 Q. Yeah, that's after your termination, though. I'm
18 talking about before you were separated from employment.

19 A. Before I was separated from employment, no.

20 Q. And at any point in time, after Reggie told the
21 Chief this was a 112 violation, did they initiate within
22 three working days a written notice of violation and a
23 request for a compliance review hearing; did that happen?

24 A. No, that did not happen.

25 Q. Why not? Why didn't you do it?

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1 and that if I did not, I was going to be terminated.

2 So I sat there and I answered very little and I --
3 and I didn't participate in giving any type of responses
4 that I knew were of investigatory purposes. This was an
5 investigation that they were trying to conduct without my
6 rights.

7 Q. That's a nice answer, but it's not answering my
8 question.

9 So I want you to listen to my question and answer
10 the question I'm asking you. I know you have a series of
11 responses you're going to give. That's not -- but you're
12 not answering the question.

13 The question is: At any point in time, during
14 this meeting or after, did you or any member of the FOP
15 initiate any of the procedures of Florida Statute 112.534
16 alleging that the meeting was an improper investigation and
17 that the investigator was violating Chapter 112? Did that
18 happen; yes or no?

19 A. Yes, it did.

20 Q. Who did it and when and how?

21 A. Reggie Lester advised the Chief of Police that it
22 was against my rights.

23 Q. What did he do?

24 A. That's what he said. And he told the Chief that
25 -- about this meeting being in violation of my rights and he

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1 A. I don't know. I -- I -- I know that I told the
2 FOP to -- to do it, to -- to protect me and --

3 Q. Who -- hold on. You told the FOP to go ahead and
4 within the three working days file the written notice of
5 violation under Section 112.534?

6 A. Yes, I had many conversations with the FOP that I
7 wanted to grieve this.

8 Q. Well, I'm not asking if you wanted to grieve it.
9 Listen to what I'm asking you.

10 Florida Statute 112.534 is the procedure that a
11 police officer or correctional officer can use, must use,
12 when there is a 112 investigatory violation.

13 Part of that procedure is that if the interview
14 continues within three working days, there has to be a
15 written notice of violation and a request for a compliance
16 review hearing that must be filed with the agency, in this
17 case the City, the agency head or their designee.

18 Did that happen?

19 A. That did not happen.

20 Q. Why not? Why didn't you do it?

21 A. Because I -- my FOP was supposed to do it and I
22 don't know how to do that. I'm not an FOP. That's why
23 they're my representatives. And I -- and I asked them to
24 file a grievance. I asked them to protect me. I asked them
25 that this -- this meeting was in violation of my 112 rights

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1 and my due processes. And -- and I -- and again, the -- the
 2 -- the meeting when it -- when it concluded, I didn't hear
 3 anything back. There was nothing else that was said. And
 4 from one -- from the 19th to the 25th, I was kept in the
 5 dark, not only from the administration, but from the FOP as
 6 well.

7 Q. You --

8 A. And then, the -- the day before they -- they
 9 separated me, I was told not to come into work, again not
 10 being told why. And then, on Monday is when they then
 11 separated me from the City.

12 Q. You would agree with me that the -- the Police
 13 Officer's Bill of Rights is pretty important in the context
 14 of police work, correct?

15 A. That is correct. And that's something that I
 16 cannot waive, not even through a LCA contract. It's
 17 statutory.

18 Q. I -- I understand that. I know you believe that
 19 the Police Officer Bill of Rights governs your employment
 20 status. We'll talk about that in a little bit.

21 But I -- what I'm trying to figure out is: If
 22 you're -- you had four FOP members at this meeting, all --
 23 according to you, they alleged a violation of 112, but
 24 nobody ever filed anything in writing with the City after
 25 the fact within -- under Florida Statute 112.534 Subsection

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1 improper interrogation. And the January meeting where you
 2 had four members of the FOP, including the president and the
 3 entire executive board, that that was an improper 112
 4 interrogation, correct? Both those meetings in your view
 5 were improper 112 interrogations, correct?

6 A. That is correct.

7 Q. Okay. And nobody, your two lawyers, Michael
 8 Pancier and Eugene Gibbons, they didn't protect you. And
 9 the FOP president didn't protect you. And no one on the FOP
 10 executive board protected you. And the FOP and Eugene, none
 11 of them ever took advantage of Florida Statute 112.534 on
 12 your behalf, correct?

13 A. That is correct.

14 Q. So everybody from the multiple lawyers and
 15 multiple top level FOP personnel, all of them dropped the
 16 ball on you, correct?

17 A. That is correct.

18 Q. And you have yet to bring a single claim against
 19 any of them for them supposedly not protecting your rights;
 20 isn't that true?

21 A. That is correct. And like I stated, I did not
 22 know that I could do that, that I can file a claim with my
 23 FOP, and --

24 Q. You --

25 A. -- and again -- excuse me. Sorry. So like I

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1 (1) (c), that there was a 112 violation. And you're saying
 2 that you told them to do that. But you didn't do it in
 3 writing, correct?

4 A. That is correct.

5 Q. So you're -- so the FOP just blew off this alleged
 6 112 violation?

7 A. So the FOP who was summoned by the Chief, yes,
 8 they did not protect my rights. The only person that --
 9 that was there standing up for me was Reggie Lester who had
 10 told the Chief to stop this meeting.

11 Q. Why didn't you bring any claim against the FOP for
 12 not protecting you?

13 A. Because I did not know that I could do that. I
 14 was not educated in that -- in that matter during at the
 15 time.

16 Q. When did you become educated in that matter?

17 A. Recently, as in a few months ago.

18 Q. How did you get educated on that?

19 A. I started reading.

20 Q. So you think -- in your world here, I just want to
 21 make sure I understand this, because there was also a
 22 November meeting that you allege was an improper 112
 23 interrogation as well.

24 So your testimony is that the November meeting
 25 where you had two lawyers and the FOP president there was an

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1 stated before, the FOP was summoned by the Chief. And at
 2 the end of the day, the FOP, they're not an entity separate
 3 from the police department. They work for the Chief. They
 4 work in the organization. They were summoned by the -- by
 5 the Chief. And at the end of the day they have to work
 6 under the Chief.

7 So it was very concerning to me that I get to this
 8 meeting and my FOP was already there and I had no idea what
 9 was going on. They knew before the meeting and they knew
 10 after the meeting and they never told me what was going on.
 11 And --

12 Q. You never brought any claim against them?

13 A. In the November meeting, they -- they did that to
 14 me, but for Nicholas Guasto, they didn't do that to him.
 15 They protected him. They followed all his rights. And so,
 16 the disparity there is that I am a female. Nick was a male.
 17 And they don't -- they did not protect me, the female.

18 Q. The FOP?

19 A. The FOP and management. That is correct.

20 Q. So this was also because you're a female?

21 A. Yes. Yes, I was --

22 Q. And --

23 A. Mm-hmm. Sorry. Go ahead.

24 Q. I just want to -- my real -- my question was very
 25 simple: To this day, you have never brought a claim against

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1 the FOP, correct; yes or no?

2 **A. That is correct. That is correct.**

3 Q. And you never brought a claim against either of

4 your prior lawyers, Gene Gibbons or Michael Pancier,

5 correct?

6 **A. That is correct.**

7 Q. But you hired --

8 **A. However -- I'm sorry.**

9 Q. Hold on. You hired a lawyer almost immediately

10 after your separation from employment, didn't you?

11 **A. Yes.**

12 Q. In fact, you filed a grievance in February, on

13 February 19th, 2021, through your lawyer, correct?

14 **A. Yes.**

15 Q. And your lawyer, Mr. Kuno, holds himself out as

16 labor attorney, correct?

17 **A. Yes.**

18 Q. Why didn't you bring a claim against the FOP

19 through your labor lawyer then that they violated -- that

20 they didn't protect your rights?

21 **A. Again, it was something that I did not know that I**

22 **could do at the time. And now I know, and now I have known,**

23 **you know, as of recently, that's what I've done. I've**

24 **educated myself to know my protections and my rights because**

25 **of what I went through. And Kuno did file a grievance. And**

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1 **A. Yes.**

2 Q. Okay. I'm going to go to Paragraph 27. Okay. Do

3 you see Paragraph 27?

4 **A. Yes.**

5 Q. Can you read that for us, please?

6 **A. The ICA required to give up her rights under the**

7 **Collective Bargaining Agreement between the City and FOP**

8 **making her an at-will employee without protections of the**

9 **just cause standard for discipline under the Collective**

10 **Bargaining Agreement.**

11 Q. And Paragraph 28?

12 **A. Under the ICA, Chief Clements could terminate**

13 **Guasto for any violation of the City of Miami MBPD policy or**

14 **procedure with the Chief being the judge of compliance with**

15 **those policies and procedures.**

16 Q. Okay. So you pled in your lawsuit -- correct me

17 if I'm wrong -- that that the Last Chance Agreement turned

18 you into an at-will employee, right?

19 **A. Yes.**

20 Q. So you could be fired for any reason or no reason,

21 correct?

22 **A. It doesn't say no reason.**

23 Q. You understand what "at-will employee" means?

24 **A. Yes.**

25 Q. What does it mean to you?

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1 **that grievance went unsupported by the union, the same**

2 **people that did not protect me.**

3 Q. But you knew enough to sue the City, Chief

4 Clements and Cosner individually, didn't you?

5 **A. Yes, I did.**

6 Q. And you understand that the claims against Chief

7 Clements and Lieutenant Cosner were dismissed with prejudice

8 by the judge, correct?

9 **A. That is correct.**

10 Q. And you understand that all your claims relating

11 to the Last Chance Agreement, the Settlement Agreement, and

12 everything that occurred that caused you to enter into those

13 agreements, you understand all those claims were dismissed

14 with prejudice by the judge, correct?

15 **A. Yes.**

16 Q. So I'm going to show you what I'm going to mark as

17 Exhibit 7. And then we'll get back to your interrogatory

18 answers. Can you see the document?

19 **A. Yes, I can see it.**

20 (Deposition Exhibit Number 7 marked for

21 identification.)

22 BY MR. ELKINS:

23 Q. This is your Complaint. Do you recognize this?

24 **A. Yes.**

25 Q. Okay. Did you review this before it was filed?

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1 **A. It means that the City -- that I was working**

2 **at-will with the City. However, I didn't understand in the**

3 **LCA, like I said, it doesn't waive any of my Officer Bill of**

4 **Rights or my due processes, something that I did not waive**

5 **that I understood I did not waive. That's what I**

6 **understood.**

7 Q. But my question to you is: You understand that

8 employment at-will is a legal term of art, right?

9 **A. Yes.**

10 Q. Okay. And you understand that it has a defined

11 legal meaning, correct?

12 **A. Yes.**

13 Q. Okay. And you understand, or do you understand

14 that employment at-will means that an employer can fire

15 someone for any reason or no reason; do you understand that?

16 **A. Yes.**

17 Q. You understand that it has nothing to do with your

18 Police Officer Bill of Rights?

19 **A. No, I do not understand that.**

20 Q. Okay. Fair enough. Let's --

21 **A. What I -- what I don't understand is being a**

22 **police officer, anybody can make any allegation against you.**

23 **That's the nature of the job. So anybody could have alleged**

24 **anything. That doesn't mean that I committed those things**

25 **or did those things.**

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1 And so, that's why my Officer Bill of Rights are
2 there to protect me. And that's why the due process rights
3 are there to protect me as well, so that I -- so that
4 somebody making a false allegation doesn't cause me my -- my
5 employment.

6 Q. I think that -- do you -- you understand the
7 difference between what the Police Officer Bill of Rights
8 protects and what you're protected with through the just
9 cause standard in your Collective Bargaining Agreement? Do
10 you understand the difference between those two things?

11 A. I understand it. However, I know that on my LCA,
12 I didn't waive it.

13 Q. Hmm. You mean -- so you think you were also
14 protected from the Collective Bargaining Agreement as well?

15 A. No. I understand that I was protected under my
16 Officer Bill of Rights, something that I did not waive.

17 Q. So you believe that the Police Officer Bill of
18 Rights says that the City, when you become an at-will
19 employee, can't fire you for any reason or no reason?

20 A. I know that there's protections under that.

21 Q. Okay. All right. Let's talk about your
22 interrogatory answers again. Okay.

23 I asked you -- well, the City asked you to list
24 witnesses that -- or individuals that would have knowledge
25 of the facts and circumstances alleged in the pleadings in

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1 Q. But --

2 A. But I believe that --

3 Q. Hold on.

4 A. Mm-hmm.

5 Q. Does Chief Clements have information as to the
6 facts alleged in your lawsuit?

7 A. Yes.

8 Q. Okay. But you didn't list him, did you?

9 A. No.

10 Q. What other individuals have knowledge about the
11 facts in your lawsuit that you didn't -- that you didn't
12 list?

13 A. That I didn't list?

14 Q. Yeah.

15 A. Agent Prieto, who was the Commander of Internal
16 Affairs at the time.

17 Q. Who else?

18 A. Steven Cosner, who was the lieutenant working the
19 nights in question.

20 Q. Who else?

21 A. Off the top of my head I -- I don't have names.

22 Q. Why didn't you list Eugene Gibbons or Michael
23 Pancier?

24 A. Because this is in regards to the 2020 EEOC and
25 then the allegations that Cosner -- that -- that Cosner had

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1 this lawsuit. Do you see this?

2 A. Yes.

3 Q. Why didn't you list former Chief Clements? You've
4 talked about him extensively in this deposition. He's
5 referenced in your Complaint. You sued him individually.
6 I'm curious why he wasn't listed as a witness?

7 A. So I thought these were for witnesses that -- that
8 can support some of the things that I -- that I'm claiming
9 happened. That's why I didn't list him. Obviously, I -- I
10 know that he's involved in all my claims --

11 Q. Well --

12 A. -- and my, you know, my allegations against the
13 City.

14 Q. Well, let's look at the question and see if it
15 even says that. It says, please provide the name, physical
16 address, email address, telephone number, place of
17 employment and job title of any person, any person, who has,
18 claims to have or who you believe may have knowledge or
19 information pertaining to any fact alleged in the pleadings
20 filed in this lawsuit, action or any fact underlying the
21 subject matter of lawsuit. Do you see that?

22 A. Yes.

23 Q. Does it say facts that support your claims or does
24 it talk about any facts?

25 A. It says any facts.

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1 written against me, so I believed that this was tied into
2 that -- into the -- after I had gotten rid of the -- the --
3 after I had dismissed the EEOC charge through the
4 settlement, the allegations of -- that Cosner had against
5 me.

6 That's why I didn't tie them into that. I thought
7 it was just when it came to the retaliation of me being
8 terminated.

9 Q. Why didn't you list the former city HR director,
10 Michael Smith?

11 A. The same reason.

12 Q. The same reason?

13 A. Yes.

14 Q. Was he not the HR director when you were separated
15 from your employment?

16 A. Yes, he was.

17 Q. So wouldn't he have information about that?

18 A. Yes, he does.

19 Q. But you didn't list him?

20 A. No, I did not.

21 Q. And my question is: Why?

22 A. Again, I believe that this was talking about the
23 -- the night in question with the allegations of Cosner
24 before that the -- the meeting. That's why I didn't list
25 them.

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1 Q. All right. So we then asked you to provide
2 information on what each witness would testify to. I'm
3 going to go back to Nick. I'm going to start with Reginald
4 Lester. You said: "Member of the FOP has knowledge of my
5 complaints of harassment, retaliation of the FOP, was in the
6 January 19th meeting and observed Chief Clements threaten to
7 terminate me after I requested representation of my -- my
8 choice and for my attorney." Do you see that?

9 A. Yes.

10 Q. What other information would Reginald Lester
11 testify to?

12 A. So he would testify to the fact that, like it says
13 there, that the Chief threatened to terminate me during that
14 meeting. He would testify to the fact that while I was
15 sitting in that meeting, I didn't want to answer any of the
16 questions that Chief Richard Clements was asking me. He
17 would testify to the fact that, again, I said that this was
18 in violation of my 112 rights and my due processes. That's
19 what he would testify to.

20 Q. What about Robert Jenkins; what -- what meetings
21 was he witness to?

22 A. He was a witness to the meetings with December,
23 the day that I signed the LCA, the Settlement Agreement.
24 And prior to that, while he was president, I've had
25 conversations with him about certain harassment that I was

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1 talked to Bobby Jenkins about the 112 violations; is that
2 your testimony?

3 A. Yes. Yes.

4 Q. And did Bobby Jenkins -- was he the state -- well,
5 was he the state FOP president at the time?

6 A. I don't recall if it was after. I don't remember
7 at the moment right now.

8 Q. Did he ever file anything under 112.534 or
9 anything else to protect your 112 rights or assert a
10 violation of your 112 rights; did he do anything about it?

11 A. No, because he wasn't the president at the time.
12 He was a former president, so he --

13 Q. What did --

14 A. -- there was nothing that he could have done about
15 it.

16 Q. What did he tell you?

17 A. I don't recall at the time, the extent of the
18 conversation, but he was trying to search for answers for
19 me.

20 Q. Well, what was he doing to search for answers?

21 A. He was trying to talk to the other FOP president.
22 You know, several times he said he would get back to me, but
23 throughout everything that was going on, we -- there was no
24 set plan or, you know, advice that he gave me. But I tried.
25 I tried to reach out to as many FOP as I can. And it all --

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1 going through in the police department that I've discussed
2 in my EEOCs.

3 So he's very -- you know, he has a lot of
4 information about me speaking to him about these type of
5 behaviors and retaliation that I was going through as well
6 as him being involved with the time that I was demoted as
7 well.

8 Q. Was he involved in your separation from employment
9 in January of 2021?

10 A. No.

11 Q. And was he involved at all? Did you speak to him
12 after the January 19th meeting?

13 A. I did have conversations with him.

14 Q. And what were those conversations about?

15 A. Just again of me telling him how I'm not being
16 properly represented by the FOP, that I was summoned to this
17 meeting and the FOP was already there, and my rights were
18 violated, and I was searching for answers, searching for
19 help so that I can remedy what I was going through and have
20 intervention to all of these rights being violated.

21 Q. So --

22 A. And he was a tenured -- he was a tenured FOP
23 president. He was president of the state as well. And I
24 was searching for somebody to help me when it came to this.

25 Q. So after your January 19th, 2021 meeting, you

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1 it all -- nobody helped me.

2 Q. Why haven't you sued the FOP recently?

3 A. So at the time, I haven't. But that's after I've
4 learned that I can, that's, you know, something that I'm
5 looking into.

6 Q. Okay. And you're saying --

7 MR. DARAGJATI: Mike, Mike, I'm sorry. I need a
8 break at this point.

9 MR. ELKINS: Okay.

10 MR. DARAGJATI: If we can take a break before you
11 go on to your next question, because she just made some
12 statements that placed me in a difficult situation.

13 MR. ELKINS: Oh, okay. Why don't we do this:
14 Take your break. Paul, you have my cell, right?

15 MR. DARAGJATI: I do. Yeah, I'll -- I'll call
16 you. I've got to call --

17 MR. ELKINS: You call me. We'll go on a break,
18 everybody.

19 THE VIDEOGRAPHER: Going off the -- going off the
20 video record at 10:53 A.M.

21 (Recess was taken.)

22 THE VIDEOGRAPHER: And we are back on the video
23 record at 11:10 A.M.

24 MR. DARAGJATI: Okay. During the break I had a
25 conversation with my client and with Mr. Elkins. I

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1 advised both of them that based upon some testimony
2 that my client gave, she has placed me in a conflict
3 situation, as I'm the statewide counsel to the State of
4 Florida FOP.

5 I can no longer represent Ms. Guasto in this
6 matter. I can't even continue this deposition today.
7 So I'll -- this evening I'll be moving to withdraw as
8 counsel for Ms. Guasto.

9 My understanding from the City is that it would be
10 unopposed. And we've also had conversations about the
11 discovery scheduling order. Based upon my withdrawal,
12 I have no objection to any request by the City for an
13 extension of the discovery timetable to complete
14 discovery.

15 MR. ELKINS: Yeah. Michael Elkins, on behalf of
16 the City. I just want to clarify that the
17 conversations that Paul had with his client and with
18 the City were separate.

19 MR. DARAGJATI: Right, that is correct, yes.

20 MR. ELKINS: We didn't have them together, number
21 one. Number two, yes, the motion to withdraw will be
22 unopposed.

23 And I you just want to remind Ms. Salabarria that
24 the deposition is suspended pending her either getting
25 new counsel or representing herself, however she

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1 chooses to proceed, but that she remains under oath and
2 should not talk about this deposition while it is
3 suspended. And that's it for today, I guess.

4 MR. DARAGJATI: All right. Thank you, everyone.

5 THE VIDEOGRAPHER: This concludes the video
6 deposition of Jessica Guasto. Going off the video
7 record at 11:11 A.M.

8 THE VIDEOGRAPHER: Mr. Elkins, will you need a
9 copy of the video?

10 MR. ELKINS: I do not need a copy of the video.
11 Tammy, I'm going to order, not rush, just a mini.
12 Don't give me all the other bells and whistles.

13 THE VIDEOGRAPHER: Mr. Daragjati, would you need a
14 copy of the video?

15 MR. DARAGJATI: No, sir, I do not.

16 THE VIDEOGRAPHER: Okay. Thank you, very much.
17 (Deposition adjourned at 11:11 A.M.)
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25

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CERTIFICATE OF OATH

1 STATE OF FLORIDA
2
3 COUNTY OF BROWARD

4 I, TAMARA MASCI TANNEN, RPR, Notary Public, State of
5 Florida, certify that JESSICA GAUSTO personally appeared
6 before me on the 13th day of February 2024 and was duly
7 sworn.

8 Signed this 13th day of February 2024.

9
10 

11 TAMARA MASCI TANNEN, RPR, FPR-C
12 Notary Public
13 State of Florida
14 My Commission #HH 93523
15 Expires March 7, 2025
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REPORTER'S DEPOSITION CERTIFICATE

1
2 STATE OF FLORIDA)
3
4 COUNTY OF PALM BEACH)

5 I, TAMARA MASCI TANNEN, Registered Professional
6 Reporter, certify that I was authorized to and did
7 stenographically report the Continued Videotaped Deposition
8 of JESSICA GAUSTO; that a review of the transcript was not
9 requested; and that the foregoing transcript, pages 142-is a
10 true and complete record of my stenographic notes.

11 I FURTHER CERTIFY that I am not a relative,
12 employee, attorney or counsel of any of the parties,
13 nor am I a relative or employee of any of the parties'
14 attorney or counsel connected with the action, nor am I
15 financially interested in the action.

16 DATED this 3rd day of March 2024.
17
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16 
17 TAMARA MASCI TANNEN, RPR, FPR-C

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
CASE NO. 1:22-cv-21004-DPG

JESSICA GUASTO,

PLAINTIFF,

VS.

THE CITY OF MIAMI BEACH, FL,
A FLORIDA MUNICIPALITY,

DEFENDANT.

VOLUME 3 (PAGES 178-244)

CONTINUED VIDEO
DEPOSITION OF:

JESSICA (GUASTO) SALABARRIA

DATE:

MARCH 15, 2024

TIME:

10:01 A.M. - 11:45 A.M.

PLACE:

VIA ZOOM REMOTE CONFERENCING

REPORTED BY:

TAMARA MASCI TANNEN, RPR, FPR-C
STENOGRAPHIC COURT REPORTER
NOTARY PUBLIC, STATE OF FLORIDA

APPEARANCES:

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ALSO PRESENT:

MATTHEW LEIVA, VIDEOGRAPHER, COASTAL VIDEO

STIPULATIONS

It is hereby stipulated and agreed by and
between counsel for the respective parties, and the
deponent, that the reading and signing of the deposition
are hereby reserved.

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PROCEEDINGS

THE VIDEOGRAPHER: Good morning. We are now on
the record. This is Matthew Leiva, the videographer.
Are we ready to begin?

MR. ELKINS: We are.

MR. BARROUKH: Yes.

THE VIDEOGRAPHER: Stand by. One moment. Okay.
Good morning. We're now on the video record. The time
is 10:01 A.M Eastern time. Today's date is March 15th,
2024. And the video deposition of Jessica Guasto in
the matter of Jessica Guasto versus the City of Miami
Beach, Florida, a Florida municipality.

MR. ELKINS: Municipality.

THE VIDEOGRAPHER: There we go. I apologize.
Case Number 122-CV-21004-DPG. My name is Matthew
Leiva. I'm your videographer for today. Tamara Masci
Tannen is your court reporter for today. We're both
representing Coastal Services.

And counsel, please introduce yourselves and
thereupon the witness will be sworn in.

MR. BARROUKH: Daniel Barroukh, Counsel for
Plaintiff, Jessica Guasto.

MR. ELKINS: Michael Elkins on behalf of
Defendant, City of Miami Beach.

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1 THE REPORTER: Jessica, raise your right hand,
2 please. Do you swear that the testimony you are about
3 to give will be the truth, the whole truth, and nothing
4 but the truth, so help you God?

5 THE WITNESS: I do.

6 THE REPORTER: Thank you. You may proceed.

7 **JESSICA SALABARRIA,**

8 **Having been first duly sworn, testified as follows:**

9 **DIRECT EXAMINATION**

10 BY MR. ELKINS:

11 Q. All right. Ms. Salabarria, did you do anything to
12 prepare for this day three of your deposition, understanding
13 that this is a continue -- continuation of your original
14 depo from back in February?

15 A. Yes.

16 Q. Okay. What did you do?

17 A. Spoke to my attorney.

18 Q. When did you speak to your attorney?

19 A. I don't have the date right now. Can't recollect
20 which date exactly.

21 Q. For how long did you speak to your attorney about
22 this deposition?

23 A. I don't know.

24 Q. Okay. And did you go over questions and answers
25 from your earlier in this testimony?

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1 privileged because if --

2 MR. BARROUKH: She -- she already -- she already
3 said she did not understand the question. Can we move
4 on, please?

5 MR. ELKINS: I'm going to move on. But I'll
6 definitely raise the issue with the judge, for sure.
7 Because she shouldn't --

8 THE WITNESS: Yes, I didn't understand what you
9 were asking me. I thought you said if I discussed my
10 case with my counsel.

11 BY MR. ELKINS:

12 Q. Well, that's a nice way to clean it up. But I
13 clearly asked if you discussed this deposition, and you said
14 yes. So that's fine. We'll take it to Judge Gayles and see
15 what he says about it.

16 Okay. I'm going to show you what I've marked as
17 -- previously as Exhibit 5. Can you see the document?

18 A. Yes.

19 Q. Okay. This is the EEOC charge you filed on
20 June -- yeah -- June 22nd, 2021. And we've gone over this
21 before, right?

22 A. Yes.

23 Q. Okay. I just want to make sure I understand what
24 this case is about. Can you see the second page here that
25 I'm looking at?

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1 A. Yes.

2 Q. You understand that you're not allowed to discuss
3 your deposition testimony with your lawyer while the
4 deposition's pending?

5 A. Can you rephrase that question because I didn't
6 understand what you were saying. Like, if I prepared for my
7 case; is that what you asked?

8 Q. No, this is a continuation of your deposition.
9 Your deposition was suspended on two prior occasions. You
10 remember that, right?

11 A. Yes.

12 Q. And so, in your first deposition, and in the
13 second one, we discussed the fact that while your deposition
14 is pending, you cannot discuss questions, you cannot discuss
15 the deposition with your lawyer. Did you understand that?

16 A. Yes.

17 Q. But you have in fact discussed the deposition with
18 your counsel; is that correct?

19 A. That is not correct.

20 MR. BARROUKH: Objection. Yeah. Objection. You
21 -- you can't ask her questions about what we spoke
22 about.

23 MR. ELKINS: Well, she already answered that she
24 did discuss it with you. And if she's discussing the
25 depo with you while it's pending, it's actually not

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1 A. Yes.

2 Q. Okay. It says, "CP -- "
3 That's you, correct? Charging Party?

4 A. Yes.

5 Q. -- was terminated for engaging in a -- in a
6 protected activity, filing the 2020 charge. That's
7 referring to your 2020 EEOC charge I think from July or June
8 of 2020, correct? Is that correct?

9 A. That is correct.

10 Q. Okay. So that's the protected activity at issue
11 as per your EEOC charge; is that right?

12 A. That is correct.

13 Q. Okay. And then, there's the second part to the
14 sentence that says, "and retaliation against RP."
15 RP is Responding Parties, right?

16 A. Yes.

17 Q. Okay. And I think if we look up here, it talks
18 about additional respondents responsible for discriminatory
19 conduct. And it says you were employed by the Responding
20 Party. That's the City of Miami Beach, correct?

21 A. That is correct.

22 Q. Okay. What do you mean -- I understand that the
23 protected activity triggering the supposed retaliation is
24 the 2020 EEOC charge of discrimination. But then it says,
25 "and retaliation against Responding Party," which is City of

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1 Miami Beach. What does that mean, and retaliation against
 2 City of Miami Beach?
 3 **A. At this moment, I don't know what that means.**
 4 Q. Okay. Who wrote this charge?
 5 **A. Can you go up to the author of the charge, please?**
 6 **Can you scroll down?**
 7 Q. Sure.
 8 **A. That was my previous counsel.**
 9 Q. Paul?
 10 **A. I believe so, yes.**
 11 Q. Okay. But you signed it, right? That's your
 12 signature?
 13 **A. Yes.**
 14 Q. And you read it before you signed it, right?
 15 **A. Yes.**
 16 Q. Okay. Going forward to the December -- I think
 17 it's 27 or 28 incident involving Lieutenant Cosner. In this
 18 charge you say that Cosner accused you of further violation
 19 of workplace rules. Do you see that?
 20 **A. Can you point to where it says it?**
 21 Q. Yeah. Right here. "Respondent Cosner, who was
 22 previously involved in the conduct leading to the 2020
 23 charge, accused Charging Party of further violation of
 24 workplace rules."
 25 **A. Okay.**

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1 work with him, you didn't speak to him, he wouldn't speak to
 2 you. I think you told me that you'd pass him in the hallway
 3 and he would ignore you.
 4 So what other -- are you referring to the fact
 5 that he just ignored you for six years, or five years, as
 6 issues?
 7 **A. I'm respond -- I'm responding to the fact that he**
 8 **held this animosity and this -- this animosity and this**
 9 **hatred towards me from the moment that I rejected him till**
 10 **2021, which is evident by him making false allegations**
 11 **against me. So he held that with him all these years --**
 12 Q. Right.
 13 **A. -- and retaliated against me for filing my EEOC**
 14 **complaint.**
 15 Q. Right. So that -- that's what I was getting at.
 16 Your point about the issues that you're talking about after
 17 you rejected him, whenever that -- that date was. I know
 18 you don't remember it off the top of your head. I don't
 19 either. But it's in the record.
 20 The issues that you're referring to after that, go
 21 to his what you call animosity and anger towards your
 22 rejection. So he ignored you for six or seven years. And
 23 your position in this lawsuit is he essentially finally took
 24 it out on you when he made these allegations against you in
 25 December of 2020, correct?

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1 Q. Do you see that?
 2 **A. Yes.**
 3 Q. And the conduct that you're referring to from
 4 Lieutenant Cosner that was part of that 2020 charge or that
 5 led to the 2020 charge, that was the issues that you had had
 6 with him six or seven years prior, right?
 7 **A. At this time, I don't recall. I do know that I**
 8 **had issues with Cosner from previous years leading up to**
 9 **this EEOC charge.**
 10 Q. Well, I think you had told me that Cosner had, you
 11 know, asked you out or tried to take your relationship
 12 further than just friendship back in 2014 or '15; and then,
 13 you rejected him; and then, from that point forward, in '14
 14 or '15 -- we can call it '15 -- he just wouldn't speak to
 15 you. Do you remember that testimony?
 16 **A. I remember. And I remember having issues with**
 17 **Cosner, like -- like I explained from 20 -- around the time**
 18 **of 2020, 2013, 2014. All the way till 2021.**
 19 Q. Well, that's not what you told me before. What
 20 you told me before was you had issues with him in '13, '14
 21 or '15 whenever that was, correct?
 22 **A. Yes.**
 23 Q. And you rejected him, correct?
 24 **A. Yes.**
 25 Q. And then, from that moment forward, you didn't

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1 **A. Yes.**
 2 Q. Okay. Got it.
 3 So let's go to -- bear with me as I get another
 4 document. Okay.
 5 I'm showing you what I'm going to mark as
 6 Exhibit 9. Do you see the document?
 7 **A. Yes.**
 8 **(Deposition Exhibit Number 9 marked for**
 9 **identification.)**
 10 **BY MR. ECKINS:**
 11 Q. Okay. This is the Allegation of Employee
 12 Misconduct form that Cosner submitted to the City against
 13 you. This has been produced I think by both parties in this
 14 case.
 15 **A. Is that the original signed copy that I can refer**
 16 **to?**
 17 Q. This is the copy that the City produced.
 18 **A. Okay. Would you happen to have the signed copy --**
 19 **a signed copy?**
 20 Q. I might. But there's only a difference I believe
 21 in the heading. I don't think there's any substantive
 22 difference. So we can go through this document.
 23 **A. I just don't know who wrote this document. It's**
 24 **not signed by anybody, so I would like to refer to a**
 25 **document that's signed.**

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1 Q. Well, you're going to refer to the documents that
2 I put in front of you. I understand what you're saying.
3 But this is the document the City produced.

4 MR. BARROUKH: You can answer, Jessica. It's all
5 right.

6 THE WITNESS: Okay. I just want to state for the
7 record that it's an unsigned copy.

8 BY MR. ELKINS:

9 Q. That's fine. The document speaks for itself.

10 So I'm going to give you a moment to read this.
11 I'll scroll when you need me to scroll because I'm going to
12 ask you some questions about it. But I want you to have an
13 opportunity to read it first.

14 A. It moved.

15 Q. Sorry.

16 A. Can you scroll down?

17 Q. Tell me when you want me to stop.

18 A. You can stop. Okay.

19 Q. All right. You alleged in this lawsuit that the
20 allegations are false -- that Cosner made false allegations
21 against you, right?

22 A. Yes.

23 Q. Okay. So tell me the allegations in this document
24 that are false.

25 A. All of it.

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1 by you, which you documented in your own handwriting that
2 you were working Area 3. Is that true or false?

3 A. That is also false. I did not give him my
4 overtime slip. I turned in my overtime slip to Lieutenant
5 Brown.

6 Q. Okay. And then, it says, at approximately 3:55,
7 which is A.M., he forwarded an email to you with the details
8 of the watch orders that needed to be assigned to Area 3
9 offices for completion prior to the end of the shift. Is
10 that true or false?

11 A. He sent me an email saying I forgot to send you
12 this at 3:55 A.M.

13 Q. And you have a copy of that email?

14 A. Yes.

15 Q. So he did send you an email at 3:55?

16 A. Yes. He sent me an email saying I forgot to send
17 you these details at 3:55.

18 Q. Okay. I understand it says he forgot. But does
19 the email say -- did the email have the details and watch
20 orders that needed to be assigned to the Area 3 officers?

21 A. Yes.

22 Q. Okay. Area 3?

23 A. That is correct.

24 Q. What is Area 3?

25 A. Area 3 is the north end -- the north end area of

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1 Q. The entire thing's false?

2 A. His allegations, what did he charge me with? Can
3 you --

4 Q. Well, he says that -- he says that on Sunday night
5 at 2200 hours, he told you that they needed a sergeant for
6 overtime for the midnight shift. Is that true or false?

7 A. That is false. I never spoke to Cosner. He never
8 gave me any directives and I never gave him my overtime
9 slip. He never spoke to me at the beginning of the shift.

10 Q. And so, Cosner did not tell you that you were the
11 next supervisor to be forced to work since they didn't have
12 any volunteers for the overtime. That next sentence is
13 false too?

14 A. That is correct, it is false.

15 Q. Okay. And then, were you assigned to Area 3?

16 A. I was assigned to Area 3.

17 Q. Okay. Who told you you'd be assigned to Area 3?

18 A. Lieutenant Brown at the time.

19 Q. And who told you you'd be working overtime?

20 A. Lieutenant Brown at the time.

21 Q. Okay. And were you told you'd be working midnight
22 till 6:00 A.M.?

23 A. Yes.

24 Q. Cosner says that you acknowledged the order within
25 several minutes provided him with an overtime slip completed

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1 the -- Miami Beach.

2 Q. Okay. And the beach is split up into three areas,
3 right: Entertainment District, Mid Beach and North Beach,
4 correct?

5 A. It's split into several areas. I don't know what
6 those areas are now.

7 Q. Well, what was it when you were working there?

8 A. I know that Area 3 was in the north end.

9 Q. Okay. Well, what were the other areas when you
10 were employed there?

11 A. I don't recall at this moment.

12 Q. Okay. And then it says he sent you a text message
13 to your cellphone advising you to check your email. That
14 was at 3:59. Is that true or false?

15 A. At this time, since it happened so long ago, I
16 don't recall the exact time that he sent me anything or the
17 text message.

18 Q. Okay. And then it says, he says he called you
19 repeatedly, but your phone went to voicemail. Is that true
20 or false?

21 A. Again, I don't remember at this time. I don't
22 recall. It happened so many years ago.

23 Q. And then it says he tried to raise you via the
24 police radio immediately afterwards. Is that true or false?

25 A. Since it happened three years ago, I -- I don't

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1 **remember at this time.**

2 Q. And then it says the dispatcher raised you

3 multiple times, and you didn't respond. Is that true or

4 false?

5 A. **Again, I don't -- I don't remember exactly how**

6 **everything happened.**

7 Q. Okay. And then it says, Sergeant Wilson Romero

8 told -- advised via radio that he would try to call you. Is

9 that true or false?

10 A. **I don't remember.**

11 Q. And then it says, "he," referring to Wilson

12 Romero, called me, Cosner, at 4:11 hours to advise that he

13 couldn't reach you and that your phone rang through your

14 voicemail. Do you know if that's true or false?

15 A. **I can't attest to what he says he did with Wilson**

16 **Romero.**

17 Q. So have you spoken to Wilson Romero about that?

18 A. **No.**

19 Q. And then, Cosner says he again tried to have the

20 dispatcher raise you. And after several attempts by name

21 and unit, you finally responded. Is that true or false?

22 A. **Again, it happened three years ago. I don't**

23 **remember the exact -- what happened that night.**

24 Q. Okay. But you remembered it enough to allege in a

25 federal lawsuit that he made false allegations; now today

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1 Q. Okay. Do you remember that happening?

2 A. **I don't remember the exact words that I told him.**

3 **So I -- I don't remember what I spoke to him. If I had a**

4 **recorded copy, I would be able to recall what I said to him**

5 **exactly.**

6 Q. If you had what?

7 A. **If I had a copy of that recording of what I said**

8 **to him, I could attest to it, but I don't remember exactly**

9 **verbatim what I said to him.**

10 Q. Okay. And 05 is the main station?

11 A. **Yes.**

12 Q. And that's the one on Washington, correct?

13 A. **Yes.**

14 Q. And it says Cosner responded by asking you if you

15 meant 05 at the NESS.

16 What is NESS -- what does NESS, N-e-s-s mean?

17 A. **I don't know the abbreviation for that.**

18 Q. You've never heard of that abbreviation?

19 A. **I know the abbreviation. I just don't know what**

20 **it stands for.**

21 Q. Okay. And then it says you said no, and that you

22 were at the main station. Do you remember telling Cosner

23 that?

24 A. **I, again, I don't remember my exact words, so I**

25 **can't attest to what he said he -- what he said I said.**

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1 you don't remember?

2 A. **That is correct. I remember -- yeah, I remember**

3 **what happened in the sense of his allegations are not**

4 **correct, are not true.**

5 Q. All right. We'll just keep going through this

6 then. Then it says the tone of your voice sounded as if you

7 were just waking up. Do you remember that?

8 A. **Again, I -- I can't attest to what he perceives my**

9 **voice sounded like. I think that's adjusted. So I don't --**

10 **I don't know how somebody's tone sounds like they're just**

11 **waking up.**

12 Q. Okay. Then it says he spoke with you via the

13 supervisor channel, which is the specific radio channel,

14 correct?

15 A. **Can you point to that again where it says that?**

16 Q. Yeah. Right at the top here it says, I spoke with

17 her via the supervisor channel.

18 So what I'm asking you is: The supervisor channel

19 is a specific channel for sergeants, lieutenants and

20 captains that regular officers don't hear, correct?

21 A. **Yes. So I remember --**

22 Q. Well, hold on. That was my question. And it says

23 he asked you where you were and you told him that you were

24 05. So first, what does "05" mean?

25 A. **05 means at the station.**

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1 Q. Well --

2 A. **So --**

3 Q. What do you remember --

4 A. **I know that the main station is 05.**

5 Q. I'm not asking you what he says you said. I'm

6 asking you if you remember what you said. Do you remember

7 what you said?

8 A. **No, I don't remember.**

9 Q. Well, how do you know it's false if you don't

10 remember?

11 A. **Because I know that his allegations are false.**

12 Q. Okay. Which allegations are false?

13 A. **Can you go up to his charges? Keep going. The**

14 **specific allegations, what he's specifically saying are the**

15 **allegations, those are all false.**

16 Q. Okay. But the details of those allegations are

17 contained in the narrative; isn't that true?

18 A. **That's what it looks like.**

19 Q. Okay. So what in this narrative -- I mean, I can

20 go through every sentence with you. I'm happy to do that.

21 But if you're saying, for example, failure to supervise is a

22 false allegation, then tell me in this narrative what facts

23 here are false that would establish that failure to

24 supervise is a false allegation.

25 A. **I just know that his allegations of -- that are in**

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1 the top are all false and this was never investigated.
 2 Q. Okay. Well, I've given you the opportunity to
 3 read this. You can read it again.
 4 But what I'm asking you, and I'll ask you again:
 5 What specific facts in this document, if any, do you know to
 6 be false or are you --
 7 A. You have --
 8 Q. -- are you testifying that you can't -- you don't
 9 remember what's true or false in this narrative?
 10 A. I -- I just know that his allegations are false.
 11 If you have a specific question, I can answer it. But his
 12 allegations are false.
 13 Q. We'll just keep going sentence by sentence then.
 14 A. Okay. Before you answer the question, I need to
 15 use the restroom.
 16 Q. Okay.
 17 A. Ask your question. I need to use the restroom.
 18 Q. Okay. Okay. We can go off the record.
 19 THE VIDEOGRAPHER: Stand --
 20 MR. ELKINS: You're --
 21 THE VIDEOGRAPHER: Standby -- I'm sorry.
 22 MR. ELKINS: You're advised not to talk about your
 23 deposition while you step away.
 24 THE WITNESS: Okay.
 25 THE VIDEOGRAPHER: Okay. Stand by. Going off the

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1 if -- Ms. Salabarria. He told me he did not have any emails
 2 from her. This was at approximately 520 hours.
 3 Now, I know you weren't there for all of that, so
 4 you certainly can't tell me what did or did not happen
 5 there. But have you spoken to Officer Ocejio about this
 6 everything and what he may have told Cosner?
 7 A. No.
 8 Q. Okay. So sitting here today, you do not know if
 9 this interaction between Cosner and Officer Ocejio is true or
 10 false?
 11 A. I don't know. I do know that they did not provide
 12 me with any witness statements, any witness testimony, any
 13 recordings or any documentation to prove these allegations
 14 specific what you're speaking on. Anything that pertains to
 15 that I was not presented with any information or statements.
 16 Q. I know -- I know you're talking about Chapter 112.
 17 And we'll get to that.
 18 But what I'm asking you is: Sitting here today
 19 you don't know if this instance with Officer Ocejio and
 20 Cosner, if it's true or false? You didn't speak to Officer
 21 Ocejio, correct?
 22 A. I did not speak to Officer Ocejio. What I'm
 23 telling you is that I did not receive anything pertaining to
 24 any witness statements --
 25 Q. I know.

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1 video record. The time is 10:27 A.M.
 2 (Recess was taken.)
 3 THE VIDEOGRAPHER: Okay. Stand by. Going back on
 4 video record. The time is 10:33 A.M.
 5 BY MR. ELKINS:
 6 Q. Okay. Going back to this document, Cosner says
 7 that after you told him you were 05 at the NESS, you told
 8 him that you were at the main station, he asked you if you
 9 were aware that you were assigned to Area 3, and you
 10 answered affirmatively. Do you remember that?
 11 A. I don't remember.
 12 Q. Okay. He then says he ordered you to respond to
 13 Area 3 and check your email; do you remember that?
 14 A. I also don't remember.
 15 Q. Okay. And then Cosner says he became involved in
 16 a vehicle stop along 71st Street that resulted in an arrest
 17 at 4:16. And he says, Officer Ocejio -- I think I'm
 18 pronouncing that right.
 19 MR. ELKINS: O-c-e-j-o, Tammy.
 20 BY MR. ELKINS:
 21 Q. -- was one of the officers who responded as
 22 backup.
 23 Cosner says after the subject was transported, I
 24 waited on scene with Officer Ocejio and he waited for a tow
 25 truck. I asked Officer Ocejio to check his email and see

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1 A. -- that he's stating here. That's what I'm
 2 talking about.
 3 Q. I understand that. But that's not my question.
 4 And you've made that abundantly clear.
 5 A. Okay.
 6 Q. I'll ask the question one more time: Sitting here
 7 today, you did not speak with Officer Ocejio before filing
 8 your lawsuit or during the pendency of this lawsuit to ask
 9 him if this interaction referred to in this document
 10 occurred with him and Cosner. True or false?
 11 A. My answer to that is that as any other
 12 investigation, I was not afforded the opportunity to speak
 13 with Officer Ocejio, how it's supposed be procedurally.
 14 Therefore, the City did not give me the opportunity to speak
 15 to Officer Ocejio or to read any of his -- or any witness
 16 statements.
 17 Q. Well, my question didn't ask you that. My
 18 question specifically asked: After filing your lawsuit or
 19 during the pendency of this lawsuit, have you spoken to
 20 Officer Ocejio?
 21 A. I believe I answered that question with my
 22 previous answer.
 23 Q. You didn't, actually. You said that during the
 24 investigation, you weren't provided witness statements.
 25 That was before your lawsuit. So I'm going to ask it again.

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1 During the pendency of this lawsuit, and right
 2 when you filed it, have you spoken to Officer Ocejó?
 3 **A. I have not spoken to Officer Ocejó.**
 4 Q. Okay. Okay. That's all I wanted to know. Then
 5 it says, at 543 hours, I, Cosner, received an unsolicited
 6 text message from Sergeant Salabarría advising me that she
 7 had emailed the squad stats and detail assignment. Is that
 8 true or false?
 9 **A. I don't remember at this time.**
 10 Q. Then it says she claimed that she had told
 11 officers via landline and email of their detailed
 12 assignments. Is that true or false?
 13 **A. Can you point to that, what you're referring to?**
 14 Q. Yep, right here. She claimed that she had told
 15 officers via landline and email of their detail assignments.
 16 Is that true or false?
 17 **A. So what I do remember doing is at the beginning of**
 18 **my shift, I spoke to Steven Serrano and I let him know to**
 19 **make sure that all officers, including myself complete the**
 20 **details for the north if there's any. Because at the**
 21 **beginning of my shift, I was never given any directives by**
 22 **any lieutenants.**
 23 Q. Okay. And it says the email that she sent me was
 24 sent at 536 hours. Is that true or false?
 25 **A. I don't have a copy of that email, so I don't**

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1 question.
 2 MR. BARROUKH: Okay.
 3 BY MR. ELKINS:
 4 Q. Is there a written statement from Serrano; yes or
 5 no?
 6 MR. ELKINS: I'm asking your client. He's not
 7 your client. If you've talked to him, I'm allowed to
 8 know about that.
 9 BY MR. ELKINS:
 10 Q. It's a simple question. Has anybody obtained a
 11 written statement from Serrano?
 12 **A. Are you asking him that question or asking me?**
 13 MR. BARROUKH: He's asking you. You can answer.
 14 THE WITNESS: Okay. Can you -- can you ask me the
 15 question again?
 16 BY MR. ELKINS:
 17 Q. Have you or any of your agents, your lawyers,
 18 anybody obtained a written statement from Mr. Serrano?
 19 **A. You would have to ask my lawyer about that.**
 20 Q. You can't refer to your lawyer. You would know if
 21 there's a written statement. It's a yes or no question. Is
 22 there a written statement from Serrano or not?
 23 **A. I don't know.**
 24 MR. BARROUKH: Objection. Form. She's telling
 25 you she doesn't know.

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1 **recall.**
 2 Q. Okay. And you said you spoke with Serrano.
 3 You've listed him as a witness in this case, correct?
 4 **A. Yes.**
 5 Q. And when's the last time you spoke with Serrano
 6 about this case?
 7 **A. That same night when I gave him the details.**
 8 Q. So the last time you've spoken to Serrano was
 9 the -- this evening. You haven't talked to him about your
 10 lawsuit?
 11 **A. That is correct.**
 12 Q. You haven't spoken to him about listing him as a
 13 witness?
 14 **A. No.**
 15 Q. And has your lawyer or anybody obtained any
 16 written statements from him?
 17 MR. BARROUKH: Objection.
 18 MR. ELKINS: What's the objection?
 19 MR. BARROUKH: Asking --
 20 MR. ELKINS: If you've obtained written statements
 21 from a witness, I've asked for them. And he's not your
 22 client. There's no privilege.
 23 MR. BARROUKH: Everything -- everything that he's
 24 given us we've provided.
 25 MR. ELKINS: Okay. Then she can answer the

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1 BY MR. ELKINS:
 2 Q. Well, did you review the documents produced in
 3 this case, Ms. Salabarría?
 4 **A. I have reviewed documents.**
 5 Q. Did you produce a written statement from
 6 Mr. Serrano?
 7 MR. BARROUKH: Objection. Form.
 8 BY MR. ELKINS:
 9 Q. You can answer.
 10 **A. Can you rephrase your question?**
 11 Q. Yeah. In the documents that you've produced in
 12 this case, are you aware of whether or not a written
 13 statement from Serrano was produced?
 14 **A. I don't know --**
 15 MR. BARROUKH: Objection. Form.
 16 THE WITNESS: I'm not --
 17 BY MR. ELKINS:
 18 Q. You don't know is that your answer?
 19 **A. I don't know. I'm not aware. I don't know.**
 20 Q. Okay. And you don't know sitting here today if
 21 anyone's obtained a written statement from him?
 22 MR. BARROUKH: Objection. Form.
 23 BY MR. ELKINS:
 24 Q. You can answer.
 25 **A. I don't know.**

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1 MR. ELKINS: And Danny, you're telling me if you
2 have a written statement from him, you would have
3 produced it?

4 MR. BARROUKH: Yes, that's what I'm telling you.

5 MR. ELKINS: So you're saying there's no written
6 statement then? Because none has been produced.

7 MR. BARROUKH: I've told you if I had a written
8 statement from him, I would have produced it.

9 MR. ELKINS: Okay. And I'm telling you, none has
10 been produced. So can you affirmatively tell me if one
11 exists or not? I mean, are we hiding the ball here on
12 the written statement you obtained from a witness?

13 MR. BARROUKH: To my knowledge, at this time,
14 there is no statement from Serrano.

15 MR. ELKINS: Okay.

16 BY MR. ELKINS:

17 Q. And Ms. Salabarria, I think you told me this
18 already, but you told me you haven't spoken to him since
19 this evening -- the evening of these allegations when you
20 told him to, you know, provide the duty assignments?

21 **A. I remember speaking to him on that day. And I**
22 **don't remember if I spoke to him after. But I do know that**
23 **I spoke to him that day.**

24 Q. Do you know if he knows that you've listed him as
25 a witness in this case?

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1 in this document?

2 **A. What's the allegation?**

3 Q. Cosner wrote in referring to the email, it says,
4 it included the squad stats and detail assignments. I'm
5 just asking you if that's true or false?

6 **A. I don't remember at this point. I -- I do know**
7 **that at some point, I sent an email with all the squad stats**
8 **as you're supposed to do. But I don't remember specifically**
9 **what you're referring to or what he's referring to.**

10 Q. Okay. Then it says, I, Cosner, called Officer
11 Hansel Romero and asked him if he had received any emails,
12 texts or phone calls from Sergeant Salabarria advising him
13 of detail assignments. He said he did not and that she had
14 only asked for stats in an email that was sent at 521 hours.
15 That email was forwarded to me by Officer Oejo.

16 Have you spoken with Officer Hansel Romero since
17 you filed this lawsuit?

18 **A. Not that I recall.**

19 Q. And then it says I began calling all the officers
20 assigned to Area 3 and inquired the same of each of them.

21 Do you know if Cosner did or did not do that?

22 **A. I don't know.**

23 Q. Every one of the officers advised that they had
24 not received a call or text.

25 Do you know if that's a true or false statement?

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1 MR. BARROUKH: Objection. Form.

2 THE WITNESS: I don't know.

3 MR. ELKINS: I'm asking her if she knows what he
4 knows. She can answer that.

5 THE WITNESS: What was your question?

6 BY MR. ELKINS:

7 Q. Do you know if Serrano knows that you've listed
8 him as a witness in this case?

9 **A. I don't know.**

10 MR. BARROUKH: Form.

11 BY MR. ELKINS:

12 Q. Okay. It says -- going back to the document here,
13 it says -- we're talking about the email you sent -- or
14 Cosner is talking about the email you sent at 536 hours. It
15 says it included the squad stats and detail assignments. Do
16 you remember if the email included that or not?

17 **A. Can you point to it one more time, please? I want**
18 **to make sure what you're referring to.**

19 Q. This is what we were talking about earlier. The
20 email that she sent me was sent at 536 hours. And then, it
21 says, "it," referring to the email, included the squad stats
22 and detail assignments.

23 **A. What was your question?**

24 Q. Do you know if the email included the squad stats
25 and detail assignments? Is that a true or false allegation

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1 **A. I don't know. Again, I was never provided with an**
2 **investigation or --**

3 Q. I understand.

4 **A. -- or anything -- anything to support his**
5 **allegations.**

6 Q. Understood.

7 Officer Romero then forwarded an email that he
8 received from Sergeant Salabarria at 542 hours.

9 Do you know if that's true or false?

10 **A. I can't see where you're pointing. Can you --**

11 Q. Right here. Officer Romero then forwarded an
12 email that he received from Sergeant Salabarria at 542
13 hours.

14 Do you know if that's true or false?

15 **A. I don't know. I don't have any -- anything to**
16 **refer to --**

17 Q. Okay.

18 **A. -- at this time.**

19 Q. The email had been sent to each of the Area 3
20 officers. Do you know if that's true or false?

21 **A. What was the question?**

22 Q. Do you know if when Cosner writes the email had
23 been sent to each of the Area 3 officers, do you know if
24 that's true or false?

25 **A. I don't know. Again, I don't -- I wasn't provided**

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1 with any -- any documentation to support his allegations.

2 Q. Understood.

3 It was the detail assignments and began with a
4 highlighted line saying squad -- quote, "squad per our
5 conversation, please note the below details for our shift,"
6 end quote.

7 Do you know if an email exists that says that? Is
8 that true or false?

9 **A. If you have something that I can refer to. But**
10 **I -- at this moment, I don't-- I don't know.**

11 Q. Well, you're the one that's alleged everything in
12 here is false, so that's why we're going through it sentence
13 by sentence. So you obviously know what is or is not false.
14 Or at least you've made that claim in your lawsuit. So
15 that's why we're walking through this sentence by sentence.

16 So Cosner writes, I found this very concerning
17 because it was now the second time she had claimed to have
18 had a conversation with the officers about their
19 assignments, when all six of them claim that had never
20 happened and they did not report to any assigned details
21 during the shift.

22 Do you know if the officers had told Cosner that
23 that never happened and they did not report to any assigned
24 details during the shift; do you know if that's true or
25 false?

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1 filed your lawsuit. I know you want to just keep going back
2 to that moment. But that's -- that's not how this works.

3 You filed a federal lawsuit alleging everything in
4 here is false. I want to know either right before or after
5 you filed that lawsuit, did you talk to any of these six
6 officers that Cosner is referring to. I believe their names
7 are Baumer, Ocejo, Serrano, Garrido, Romero, Albaladejo.

8 MR. ELKINS: I'll spell that, Tammy.

9 A-l-b-a-l-a-d-e-j-o.

10 BY MR. ELKINS:

11 Q. Did you speak to any of them to flesh out, find
12 out, if what Cosner said in here is true? You personally,
13 after or right before you filed your lawsuit. That's all I
14 want to know. If the answer is no, that's fine.

15 **A. That I personally speak to them? No.**

16 Q. You. Did anybody on your behalf speak to them?

17 **A. I don't know.**

18 Q. Okay. Did -- did your lawyer speak to them?

19 **A. I don't know.**

20 Q. Okay. Did any other agent of yours speak to them?

21 **A. I don't know.**

22 Q. Okay. Did you or anyone on your behalf obtain any
23 written statements from any of these six officers?

24 **A. I don't know.**

25 Q. Okay. Cosner puts in here that the AVL Detail

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1 **A. I don't know. Like I said, I wasn't provided with**
2 **any testimony or any -- anything to support what he's**
3 **alleging that they said.**

4 Q. Right. And since the filing of your lawsuit, did
5 you do any investigation on your own to determine if what
6 Cosner said these officers told him was true or false?

7 MR. BARROUKH: Objection. Form.

8 BY MR. ELKINS:

9 Q. You can answer.

10 **A. I know that my counsel has. So you can ask them.**

11 Q. Your counsel's done an investigation into these
12 officers. I don't understand what that means.

13 **A. I don't understand your question. Can you**
14 **rephrase it, please?**

15 Q. It's a very simple question.

16 Since you filed this lawsuit alleging that all
17 these allegations are false, have you done any investigation
18 with these officers, spoken to them, asked them if what they
19 told Cosner was true or false; did you do that?

20 **A. I don't know. I know that if I would have been**
21 **given the opportunity to do so, like they normally do and**
22 **procedurally, I would have been -- I would have had an**
23 **opportunity to do so.**

24 Q. I'm not asking you about what happened when you --
25 when you were terminated. My question is about since you

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1 Report shows that your vehicle had been parked at the
2 station from 2200 hours -- that's 10:00 -- on 12/27 until
3 4:23 in the morning on 12/28.

4 You have produced that AVL report in your
5 discovery. You've seen the AVL report. Is the AVL
6 report -- is that true what the AVL report says, that your
7 vehicle was parked from 2200 till 10:00 P.M. on 12/27 until
8 4:23 in the morning on -- on 12/28?

9 **A. I don't know.**

10 Q. Do you have any reason to believe that the AVL
11 report was doctored in any way?

12 **A. I don't know.**

13 Q. Okay.

14 **A. Again, if this would have been provided to me in**
15 **realtime, I would have been able to answer that question,**
16 **but I don't know.**

17 Q. But sitting here today after you filed your
18 lawsuit in federal court claiming it's all false, you don't
19 know?

20 **A. I don't know.**

21 MR. BARROUKH: Objection to form.

22 MR. ELKINS: Okay. I just need to mark this.

23 Give me one second.

24 BY MR. ELKINS:

25 Q. I'm going to show you what I'm going to mark as

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1 Exhibit 10. One second. Okay.
 2 (Deposition Exhibit Number 10 marked for
 3 identification.)
 4 BY MR. ELKINS:
 5 Q. This is Exhibit 10. This is the letter from
 6 former, at the time Chief Clements -- now former Chief
 7 Clements to you implementing your letter of resignation.
 8 You've seen this document before, correct?
 9 A. Yes.
 10 Q. Okay. And on January 19th, you were brought into
 11 the Chief's office for a meeting to discuss Cosner's
 12 allegations; is that correct?
 13 A. What was your question again?
 14 Q. On January 19th, 2021 there was a meeting that you
 15 were present at and that meeting was to discuss the
 16 allegations from Lieutenant Cosner, correct?
 17 A. That is not correct. I was sent an email
 18 invitation to attend an unknown meeting that I had no idea
 19 what the meeting was about.
 20 Q. Okay. And this document says that present at that
 21 meeting was Wayne Jones, Paul Ozaeta, who at the time was
 22 the FOP President; Arley Flaherty, who at the time was the
 23 FOP First Vice President, Reggie Lester, who at the time was
 24 the FOP Second Vice President, Delvin Brown, the FOP
 25 Grievance Chair, Cosner and A.J. Prieto.

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1 knowledge.
 2 Q. Okay.
 3 A. So they were already there when I was told to come
 4 into this unknown meeting, unknown nature, and the FOP was
 5 already there conjuring with the Chief behind closed doors.
 6 And not once did they speak to me to tell me what this
 7 meeting was about or what was the nature of this meeting.
 8 Q. Well, what is the significance of the FOP being at
 9 the meeting before you arrived in your mind?
 10 A. They were summoned by the Chief of Police. And
 11 the FOP is supposed to represent me. And they were already
 12 there summoned by the Chief of Police, not the Member.
 13 Q. Okay. And -- and why is that a problem for you?
 14 A. They were summoned by the Chief of Police. That's
 15 the problem.
 16 Q. Why is that -- I'm asking you why that's a
 17 problem?
 18 A. Because the FOP represents the Members, not the
 19 Police Chief.
 20 Q. How is -- how is it -- how is the fact that the
 21 Chief wanted the FOP to be at a meeting where he's going to
 22 have -- he's going to have with one of his Members a
 23 problem?
 24 A. At this time, I don't know.
 25 Q. You would agree with me, though, it would be more

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1 MR. ELKINS: Tammy, do you need any of those
 2 spellings?
 3 THE REPORTER: (Nodding.)
 4 BY MR. ELKINS:
 5 Q. Were those people -- these people that are listed
 6 here, were they present at this meeting?
 7 A. From my recollection, I believe so.
 8 Q. Okay. Now I understand that you are taking the
 9 position that this meeting was an improper interrogation
 10 under the Police Officer Bill of Rights; is that true?
 11 A. Yes.
 12 Q. So do you know under Chapter 112 what the remedy
 13 is if a municipality or an investigator violates 112? Do
 14 you know what the consequences of that are?
 15 A. I don't know off the top of my head.
 16 Q. Okay. And did anybody, any one of Paul Ozeata,
 17 the FOP president; Arley Flaherty, the FOP First Vice
 18 President; Reggie Lester, the FOP Second Vice President, or
 19 Delvin Brown, the FOP Grievance Chairman, did any of them
 20 file anything on your behalf taking advantage of the
 21 administrative remedies in Chapter 112 in the Police Officer
 22 Bill of Rights? Did they file anything alleging a
 23 violation?
 24 A. I don't know. I do know that the FOP was already
 25 there and was summoned by the Chief of Police without my

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1 of a problem if the Chief met with you without the FOP
 2 there; isn't that true?
 3 A. Rephrase that question.
 4 Q. It would be more of a problem if the Chief met
 5 with you or tried to meet with you without a representative
 6 from your union; that would be a problem, wouldn't it?
 7 A. Those were not my representatives of choice. And
 8 I was denied my representation of choice. And that's the
 9 problem.
 10 Q. Who denied you representation of choice?
 11 A. The Chief of Police, Richard Clements.
 12 Q. Okay. And did any one of Paul Ozaeta, the FOP
 13 President; Arley Flaherty, the FOP First Vice President;
 14 Reggie Lester, the FOP Second Vice President, or Delvin
 15 Brown, FOP Grievance Chair, did any one of them at any point
 16 in this meeting stop the meeting and say, no, you can't
 17 continue, Chief, we're going to get her someone else to
 18 represent her? Did that happen?
 19 A. Reggie Lester told the Chief of Police that I was
 20 requesting representation of my choice. And the Chief of
 21 Police stated that that was going to be denied and that I
 22 would be terminated if I didn't continue with this meeting.
 23 Q. And you -- have you spoken to Reggie Lester about
 24 that since this meeting?
 25 A. Before I was terminated, yes, I did speak to him.

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1 But after I was terminated, no.
2 Q. And you understand, though, that your Last Chance
3 Agreement converted you to an employee at-will. I think we
4 talked about that earlier, right?
5 A. So if I was at-will, why was the FOP there?
6 Q. This is my opportunity to ask you questions, so
7 you have to answer my question. You understand that your
8 Last Chance Agreement converted you to an employee at-will,
9 correct?
10 A. I understand that the FOP -- I'm sorry. So I was
11 not at-will. I was under the Officer Bill of Rights, which
12 is statutory and it is afforded to all sworn police
13 officers. So no, I did not understand or knew that I was
14 at-will.
15 Q. So you think that the Police Officer Bill of
16 Rights guarantees you employment; is that what you're
17 telling me?
18 A. I understand that the Officer Bill of Rights
19 guarantees that I'm not at-will.
20 Q. Okay. That's interesting. Okay. Tell me -- tell
21 me what happened in this meeting, the January 19th, 2021
22 meeting; what happened?
23 A. Is there a specific question that you have?
24 Q. Yeah. What happened in this meeting? What do you
25 remember happening? That's the specific question.

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1 as far as witness statements, nor was I given a copy of
2 any supplementation to support these allegations. And
3 that's as much as I remember at this moment.
4 BY MR. ELKINS:
5 Q. Okay. Do you remember during the meeting being
6 given a copy of the Allegation of Employee Misconduct?
7 A. I don't remember.
8 Q. Do you remember --
9 A. I don't --
10 Q. Okay. If you don't remember, you don't remember.
11 Do you remember informing the Chief that despite
12 being assigned to the North District, you didn't report to
13 the North District?
14 A. I don't remember. And I don't -- I don't remember
15 even the questions that he asked, that the Chief of Police
16 asked me, as they weren't recorded. And I don't -- I don't
17 remember what questions he asked me.
18 Q. Okay. So I presume then if I was to walk through
19 each of the allegations in here, you're going to tell me
20 that you don't remember because the meeting wasn't recorded?
21 A. That is correct. I don't remember.
22 Q. Do you remember telling the City that you were
23 working on Officer Stella's evaluation while you were in
24 your police vehicle at the station on December 27th through
25 to the morning of December 28th; do you remember that?

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1 A. That's too much of a broad question. So I -- I
2 don't know. I can't give you an answer to that.
3 Q. You don't get to not answer. It's not a broad
4 question. It's very simple. There was a meeting on
5 January 19th, 2021. I am asking you very specifically what
6 do you remember that happened in the meeting? If you say
7 you don't remember, that's fine, but you don't get to tell
8 me that that's too broad. What happened? It's a very
9 specific question, actually. What happened in this meeting?
10 MR. BARROUKH: You can answer him, Jessica.
11 THE WITNESS: Okay. So I remember that I was
12 invited to this unknown meeting, unknown in nature.
13 When I got there, my accuser, Steven Cosner, was there,
14 along with the Internal Affairs Commander, so
15 immediately that raised a red flag to me because it --
16 it seemed to be discipline in nature.
17 And the fact that the FOP was already there
18 summoned by the Chief of Police was also concerning to
19 me. And it was also concerning to me that I was not
20 afforded my representation of my choice. I also asked
21 for Arley Flaherty to be removed from this meeting, as
22 I did not want her to be a part of this meeting. That
23 was also denied.
24 And I do remember that this meeting was not taped,
25 was not recorded. And I wasn't given any documentation

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1 A. I don't remember that. If I can be provided a
2 copy of what I said, maybe it could recollect my memory.
3 Q. Understood. Understood.
4 And -- and the City implemented your Letter of
5 Resignation on January 25th, which was six days after the
6 meeting, correct?
7 A. If that's what it says there, then that's correct.
8 Q. Well, do you recall that happening?
9 A. I just know that I was brought into January 25th,
10 another meeting, and I was presented this document.
11 Q. And in this document, the City implements your
12 Letter of Resignation, correct?
13 A. That is correct.
14 Q. So connect for me the 2020 EEOC charge that was
15 June or July of 2020, which you say in your 2021 charge is
16 the protected activity, connect that to me with your
17 January 2021 termination.
18 MR. BARROUKH: Objection. Form.
19 BY MR. ELKINS:
20 Q. Okay. You can answer. I'll ask the question a
21 different way.
22 How are you connecting your 20 -- your filing of
23 your 2020 EEOC charge, which you say in your 2021 charge was
24 your protected activity, and we've talked about at length,
25 how are you connecting that to your termination?

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1 A. So again --
2 MR. BARROUKH: Objection. Form.
3 BY MR. ELKINS:
4 Q. You can answer.
5 A. Okay. So I know that I filed a EEOC charge. And
6 then, I was retaliated against for filing that EEOC charge.
7 And then, I was retaliated against for filing that EEOC --
8 EEOC charge. And then, I suffered an adverse employment
9 action by being terminated for filing that EEOC charge.
10 Q. Well, what was the retaliation for filing the EEOC
11 charge? The termination is the retaliation, correct?
12 A. Yes. I was -- I was retaliated against by the
13 City --
14 Q. Right.
15 A. -- by being falsely accused of these allegations
16 that led to this adverse employment action. And I was
17 terminated.
18 Q. I understand that that is your legal claim.
19 What I'm asking you is: How or what evidence do
20 you have that connects what happened in December of 2020
21 with Cosner and these allegations to the filing of the 2020
22 EEOC charge in June or July of 2020? Like, what facts do
23 you have that connect for you the City did this because I
24 filed that charge?
25 MR. BARROUKH: Objection. Form.

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1 Q. And I believe you've alleged that that meeting
2 also was a violation of Chapter 112, correct?
3 A. Yes.
4 Q. Okay. Were you interrogated in that meeting?
5 A. Yes.
6 Q. Okay. Who interrogated you and what did they say,
7 if you remember?
8 A. I don't remember.
9 Q. Okay. So if your lawyers, either Mr. Pancier or
10 Mr. Gibbons, if they testify that you were not interrogated
11 in that meeting, are they lying?
12 MR. BARROUKH: Objection. Form.
13 BY MR. ELKINS:
14 Q. You can answer.
15 A. I don't -- I don't know.
16 Q. Okay. And you under -- and you are aware that
17 that meeting was -- was set up by your counsel with the City
18 as a confidential settlement meeting, correct?
19 MR. BARROUKH: Objection. Form.
20 BY MR. ELKINS:
21 Q. You can answer.
22 A. I remember that this meeting was to discuss my
23 EEOC.
24 MR. ELKINS: Give me one second. So I'm going to
25 show you what I'm going to mark as Exhibit 10 -- no,

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1 BY MR. ELKINS:
2 Q. You can answer.
3 A. I -- I don't understand your question. I -- all I
4 know is that the way I answered it, that's my answer. And
5 that's as good of an answer that I have right now. I'm
6 sorry.
7 Q. No problem. That's fine.
8 And at no point -- I think we talked about this
9 before. I just want to clarify. At no point did your prior
10 attorneys, Michael Pancier, Gene Gibbons, or Mr. Cunill --
11 MR. ELKINS: C-u-n-i-l-l, Tammy.
12 BY MR. ELKINS:
13 Q. -- did any of those lawyers file anything under
14 the administrative procedure in Chapter 112 on your behalf,
15 correct?
16 A. I -- I don't know.
17 Q. Okay. And in the -- just going back -- and I
18 don't mean to jump around, it's not a tactic. I just have
19 some other things I want to get to.
20 You remember the November 2nd, 2020 meeting where
21 you were represented by both Mr. Pancier, who was your
22 privately-hired EEOC attorney, and Mr. Gibbons, who was FOP
23 counsel. And I believe Kevin Milano was present as well.
24 You remember that meeting, correct?
25 A. Yes.

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1 I'm sorry -- Exhibit 11. I'm sorry for the delay. I
2 just label the documents as I go.
3 (Deposition Exhibit Number 11 marked for
4 identification.)
5 BY MR. ELKINS:
6 Q. Okay. All right. I'm showing you a copy of what
7 I've marked as Exhibit 11. Do you recognize this document?
8 A. Yes.
9 Q. What is this document?
10 A. Declaration of Nicholas Guasto.
11 Q. Have you seen it before?
12 A. Yes.
13 Q. When was the last time you saw it?
14 A. I don't remember.
15 Q. Were you involved in the preparation of this
16 Declaration?
17 A. No.
18 Q. Who prepared it?
19 A. I don't remember at this time.
20 MR. BARROUKH: Objection to form.
21 BY MR. ELKINS:
22 Q. You can answer.
23 A. Yeah, I -- I don't remember. I wasn't involved in
24 it.
25 Q. Was this Declaration -- I believe it was signed

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1 on -- hold on -- November 5th, 2021. Were you still married
2 to Mr. Guasto then?

3 **A. I don't remember the exact date we separated.**

4 Q. I didn't ask you when you separated. I asked if
5 you were still married?

6 **A. Still married. I think so. I don't -- I don't
7 remember.**

8 Q. Well, when was your divorce finalized?

9 **A. I -- I don't remember that. I would have to look
10 at -- I would have to look at the documents to refer to
11 which date it was finalized.**

12 Q. Had you filed for divorce by November of 2021?
13 You're telling me you don't remember when you filed for
14 divorce, even approximately?

15 **A. I didn't file for divorce, so I don't know.**

16 Q. You don't remember when Nick filed for divorce?

17 **A. I don't remember.**

18 Q. Okay. And you don't remember who prepared this
19 Declaration?

20 MR. BARROUKH: Objection.

21 THE WITNESS: No, I wasn't --

22 MR. BARROUKH: Form.

23 BY MR. ELKINS:

24 Q. You can -- you don't remember, Ms. Salabarria?

25 **A. I wasn't involved in the preparation of this, so I**

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1 besides this Declaration in response to the City's position
2 statement?

3 **A. I don't know.**

4 Q. You don't remember if you submitted a rebuttal
5 statement or if your lawyer submitted a rebuttal statement?

6 **A. I don't know. You would have to ask my lawyer.**

7 Q. And you understand that we asked for everything
8 that you submitted to the EEOC; are you aware of that?

9 **A. I -- I don't know.**

10 Q. You didn't review the request for production that
11 we had sent you previous?

12 **A. I reviewed documentations, but I don't know what
13 you're referring to. I -- I don't know.**

14 Q. You don't know what I'm referring to when I ask
15 you if you've provided us everything that you submitted to
16 the EEOC? What about that do you not understand?

17 **A. I don't understand because I'm not a lawyer, so I
18 don't know what my counsel did.**

19 Q. Okay. So sitting here today, you can't tell me if
20 you submitted anything else to the EEOC besides this
21 Declaration from Mr. Guasto?

22 **A. I don't know.**

23 MR. ELKINS: All right. Let's -- Dan, do you
24 prefer Daniel or Dan, by the way?

25 MR. BARROUKH: We can do Danny, actually.

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1 **don't know.**

2 Q. Who was?

3 MR. BARROUKH: Objection. She already -- she
4 already answered that she didn't know.

5 MR. ELKINS: Okay. I can ask her multiple times.
6 You can object to form. Your objection's -- your asked
7 and answered objection is preserved. Don't coach the
8 witness.

9 BY MR. ELKINS:

10 Q. Answer, please.

11 **A. You would have to ask Nicholas Guasto. I don't
12 know.**

13 Q. Okay. This was submitted to the EEOC I believe as
14 part of your response to the City's position statement to
15 your 2021 EEOC charge; is that correct?

16 **A. Say that again.**

17 Q. This Declaration was submitted to the EEOC,
18 correct?

19 **A. Okay. Yes.**

20 Q. Is that true?

21 **A. Yeah, I believe so.**

22 Q. Okay. And that was done in response to the City's
23 position statement to your 2021 EEOC charge, correct?

24 **A. Yes.**

25 Q. Okay. Did you submit anything else to the EEOC

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1 MR. ELKINS: Danny. Okay. Danny, let's take 15
2 so I can go through some things. I might be done. If
3 not, I'm probably very, very, very close to being done.
4 I just want to take a little bit of time to
5 double-check so we don't have to keep breaking, if
6 that's okay.

7 MR. BARROUKH: Absolutely. Take your time.
8 Fifteen minutes or do you want 20?

9 MR. ELKINS: No, let's just come back at 11:00.
10 Let's come back at 11:40. No, I'm sorry. 11 -- 11:30.
11 11:30.

12 MR. BARROUKH: All right. That works for me.

13 MR. ELKINS: All right. Thank you.

14 MR. BARROUKH: Thank you. Yeah, no problem.

15 THE REPORTER: Is this off the record?

16 THE VIDEOGRAPHER: I apologize. Going off the
17 video record. The time is 11:13. A.M.

18 MR. ELKINS: Thank you.

19 (Recess was taken.)

20 THE VIDEOGRAPHER: Okay. Stand by. Going back on
21 video record. The time is 11:30 A.M.

22 BY MR. ELKINS:

23 Q. All right. I'm going to show you what I've marked
24 as Exhibit 12.

25 (Deposition Exhibit Number 12 marked for

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1 identification.)
2 BY MR. ELKINS:
3 Q. Have you ever seen this document before?
4 A. At this moment, I don't -- I don't know. I've
5 seen a lot of documents, so I don't know which one
6 specifically this one is.
7 Q. Okay. Well, I'll give you a minute to take a look
8 at it. Just tell me when you want me to scroll if you need
9 me to.
10 A. Okay. Thank you. Can you go down? Okay.
11 Q. Okay. This is a letter from your prior counsel to
12 the EEOC, correct?
13 A. That's what it looks like.
14 Q. Well, is Michael Pancier your prior counsel?
15 A. Yes.
16 Q. Is he writing this letter to the EEOC?
17 A. Again, that's what it looks like to me.
18 Q. Okay. So the answer is, yes, this is a letter
19 from your prior counsel to the EEOC?
20 A. That is a prior letter, yes.
21 Q. Okay. And this was your counsel informing the
22 EEOC that the June or July 2020 EEOC charge, the charge that
23 you say is your protected activity, that that charge was
24 resolved and the parties just need some additional time to
25 work out the settlement paperwork. Is that essentially what

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1 A. Where does it say that?
2 Q. Right here.
3 A. Okay.
4 Q. Right?
5 A. What was your question?
6 Q. The Settlement Agreement that you ultimately
7 signed later in December involved you paying the City, not
8 the City paying you, correct?
9 A. Yes.
10 Q. And that's what he's referring to here, correct?
11 A. That's what it looks like.
12 Q. I'm showing you what I'm marking as Exhibit 13.
13 (Deposition Exhibit Number 13 marked for
14 identification.)
15 BY MR. ELKINS:
16 Q. Have you seen this document before?
17 A. Can you lower it? Okay. I don't remember if I've
18 seen it. There was a lot of paperwork that I've seen, so I
19 can't tell you specifically I've seen this one before.
20 Q. Okay. Well, this says --
21 A. It's possible.
22 Q. Sure. That's fair.
23 Your name doesn't show on here that you received
24 it. This is from the U.S. Equal Employment Opportunity
25 Commission, correct?

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1 this letter says?
2 A. Yes.
3 Q. Okay. And your counsel provided a copy of this
4 letter to you, didn't he?
5 A. I believe so.
6 Q. Okay. Because it says at the bottom, CP, Charging
7 Party.
8 Charging Party is you, correct?
9 A. Yes.
10 Q. And this was a resolution that resulted in the
11 Settlement Agreement and the Last Chance Agreement that you
12 signed later in December, correct?
13 MR. BARROUKH: Objection. Form.
14 BY MR. ELKINS:
15 Q. You can answer.
16 A. I believe so.
17 Q. I think he references in here that the settlement
18 between the parties which will be final when the parties
19 complete the settlement paperwork does not involve a
20 monetary payment to Charging Party. Do you see that?
21 A. Yes.
22 Q. And the Settlement Agreement you ultimately
23 signed, like, a week or two or a couple weeks after
24 December 2020, which had the Settlement Agreement involved
25 you paying the City, not the City paying you, correct?

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1 A. Yes.
2 Q. Okay. And this says, that this is to inform
3 you -- it's written to me -- that the charge cited above,
4 which is this 510-2020-04794, which is your 2020 EEOC
5 charge, has been withdrawn at the request of the Charging
6 Party. Do you see that?
7 A. Okay.
8 Q. You're the Charging Party, correct?
9 A. Yes.
10 Q. And this document is dated February 9th, 2021,
11 correct?
12 A. Yes.
13 Q. I'm going to show you what I'm going to mark as
14 Exhibit 14.
15 (Deposition Exhibit Number 14 marked for
16 identification.)
17 BY MR. ELKINS:
18 Q. Okay. This is a document from 2012. I'm going to
19 ask you if you've seen it. You may not remember, which is
20 fine. It's your, it's your receipt of the Employee
21 Handbook.
22 A. Okay.
23 Q. Do you remember signing a bunch of documents when
24 you first became employed at the City?
25 A. Yes.

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1 Q. And is that your signature?
2 A. Yes.
3 Q. And it says here, "Employee Handbook Receipt." Do
4 you see that?
5 A. Yes.
6 Q. It says you're acknowledging you received a copy
7 of the City of Miami Beach Employee Guide?
8 A. Yes.
9 Q. And that you're responsible for reading it and
10 following the guidelines contained therein?
11 A. Yes.
12 Q. You understand that a violation of the guidelines
13 may result in disciplinary action up to and including
14 termination; do you see that?
15 A. Yes.
16 Q. Almost there.
17 MR. ELKINS: I'm going to show you what I'm
18 marking as Exhibit 15.
19 ~~(Deposition Exhibit Number 15 marked for~~
20 ~~identification.)~~
21 BY MR. ELKINS:
22 Q. Okay. This is the Letter of Resignation prepared
23 on December 18th that was attached to your Settlement
24 Agreement and Last Chance Agreement. Is that your
25 signature?

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1 you referenced working security at Brickell City Centre. To
2 date, I haven't received any documents from Brickell City
3 Centre.
4 So my question is: What -- what's the name of the
5 company that you actually worked for? Like, who is --
6 what's the name of that actual company? I know you
7 worked --
8 A. So.
9 Q. -- at Brickell City Centre, but it was -- and I'll
10 tell you why I'm asking. It's not a trick. It was unclear
11 to me if you were part of, like, a company that was hired as
12 a third-party vendor to provide security at Brickell City
13 Centre or did you work directly for Brickell City Centre? I
14 just don't think we ever got that clarified. That's what
15 I'm trying to figure out.
16 A. Okay. So I was contracted by Brickell City
17 Centre. I had to interview with them and make sure that the
18 property manager and whatnot agreed to have me as their
19 account manager, security manager. And the security
20 officers are contracted by Allied Universal.
21 Q. Okay. But you didn't work for Allied or you did
22 work for Allied?
23 A. I believe it was both. So Brickell City Centre
24 and Allied Universal.
25 Q. Do you know if Brickell City Centre had a contract

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1 A. Yes.
2 Q. All right. Just a few more questions and then I'm
3 done.
4 You're familiar with your former union's or any
5 union's duty of fair representation?
6 A. No. I have not -- I don't know exactly what
7 you're referring to. Like, I -- I just don't understand
8 that. So if you can rephrase it or --
9 Q. No problem. I'll withdraw it.
10 Sitting here today, have you filed a lawsuit
11 against the FOP?
12 A. No.
13 Q. Have you filed an Unfair Labor Practice charge
14 against them?
15 A. No.
16 Q. Have you filed anything against the FOP relating
17 to their conduct with you as it relates to your separation
18 from employment with the City of Miami Beach?
19 A. No.
20 MR. BARROUKH: Objection. Form.
21 BY MR. ELKINS:
22 Q. You can answer.
23 A. No.
24 Q. Okay. And one final point: When we talked about
25 your prior employers the first day that you were deposed,

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1 with Allied Universal for Allied to provide security?
2 A. I believe so. I don't know the exact contracts or
3 what they have in place.
4 Q. When you got paid, what was on your paystub?
5 A. I believe it was Universal. I -- I don't have the
6 exact name. Universal Corp. or something to that effect.
7 Q. So it wasn't Brickell City Centre on your paystub?
8 A. No.
9 Q. And who was your -- go ahead.
10 MR. BARROUKH: I was just going to say we provided
11 you with these documents recently actually, within the
12 past two weeks with her W-2s, paystubs, things of that
13 nature, which can speak to the employment record a lot
14 more accurately.
15 MR. ELKINS: Well, is there records from Allied
16 Universal and Brickell City Centre?
17 MR. BARROUKH: All of the W-2s that I received
18 I've given to you. If it doesn't clarify, then I don't
19 believe there are any documents in existence which
20 could clarify further.
21 MR. ELKINS: Hold on one second. So I got the
22 Indeed reports, which I think David sent me.
23 MR. BARROUKH: Yes.
24 MR. ELKINS: And I did get the payroll stuff. I'm
25 trying to go to your email where I think you sent that

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1 over.
2 MR. BARROUKH: Yes. Would you like this to stay
3 on the record or do you want to go off the record?
4 MR. ELKINS: We -- we can go off the record. I
5 don't want to waste the time if you sent it. I just
6 don't remember it being there. It was 10 pages that
7 you sent me.
8 THE VIDEOGRAPHER: Counsel, do you want to go off
9 record?
10 MR. ELKINS: Yeah, we can go off record.
11 THE VIDEOGRAPHER: Stand by. Going off record.
12 The time is 11:42 A.M.
13 (Discussion was held off the record.)
14 THE VIDEOGRAPHER: Okay. Going back on video
15 record. The time is 11:43 A.M.
16 BY MR. ELKINS:
17 Q. Okay. So just to clarify from earlier your --
18 when you worked at Brickell City Centre, you were -- the
19 company you worked for was Universal Protection Service,
20 LLC, correct?
21 A. I believe so. If that's what it says on there,
22 then that's who was providing the -- the funds for my
23 employment.
24 Q. Okay. And then, with respect to damages, it's my
25 understanding that you are only requesting backpay; is that

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1 I can drop them into the chat right now, if that will
2 work.
3 THE VIDEOGRAPHER: Counsel, Daniel?
4 MR. BARROUKH: Yeah, we don't need a video. We're
5 -- Ms. Court Reporter, we're going to read as well.
6 THE VIDEOGRAPHER: Okay. Understood. Stand by.
7 Going off video record. The time is 11:45 A.M.
8 THE REPORTER: Daniel, are you ordering a copy?
9 MR. BARROUKH: Yeah, is the mini the four pages on
10 one page?
11 THE REPORTER: Yes.
12 MR. BARROUKH: All right. We'll -- we'll do that
13 as well.
14 THE REPORTER: Do you want her entire deposition?
15 Because I'm not sure if you guys have --
16 MR. BARROUKH: We'll just do this deposition.
17 THE REPORTER: Okay.
18 MR. BARROUKH: I appreciate it.
19 (Deposition concluded at 11:45 A.M.)
20
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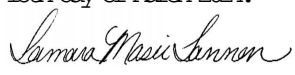
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1 correct? You're not -- you've waived your compensatory
2 damages, correct?
3 A. I'm not sure. You would have to ask my attorney.
4 Q. I can't ask your attorney. You're the plaintiff.
5 You have to answer that question.
6 A. I -- I don't know. I don't -- I'm not familiar
7 with legal jargon, so I don't know.
8 Q. You're not familiar with the damages you're
9 requesting in your own lawsuit; is that your answer?
10 MR. BARROUKH: Objection. Form.
11 THE WITNESS: No.
12 BY MR. ELKINS:
13 Q. You can answer.
14 A. I -- I don't know.
15 Q. Okay. Fair enough.
16 MR. ELKINS: I don't have anything further.
17 Read or waive?
18 MR. BARROUKH: Let's go off the record. We're
19 going to read.
20 MR. ELKINS: Tammy, I'm going to order.
21 THE VIDEOGRAPHER: Before going off video record,
22 counsel, will you be ordering the video?
23 MR. ELKINS: Not ordering the video. I'm ordering
24 the transcript. Tammy, I only need a mini. Don't --
25 don't send me the whole thing. And then the exhibits,

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1 CERTIFICATE OF OATH
2 STATE OF FLORIDA
3 COUNTY OF BROWARD
4 I, TAMARA MASCI TANNEN, RPR, Notary Public, State of
5 Florida, certify that JESSICA SALABARRIA personally appeared
6 before me via Zoom on the 15th day of March 2024 and was
7 duly sworn.
8 Signed this 15th day of March 2024.
9
10 
11 TAMARA MASCI TANNEN, RPR, FPR-C
12 Notary Public
13 State of Florida
14 My Commission #HH 93523
15 Expires March 7, 2025
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REPORTER'S DEPOSITION CERTIFICATE

STATE OF FLORIDA)
COUNTY OF PALM BEACH)

I, TAMARA MASCI TANNEN, Registered Professional Reporter, certify that I was authorized to and did stenographically report the Continued Video Deposition of JESSICA SALABARRIA; that a review of the transcript was requested; and that the foregoing transcript, pages 178-240, is a true and complete record of my stenographic notes.

I FURTHER CERTIFY that I am not a relative, employee, attorney or counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 27th day of March 2024.


TAMARA MASCI TANNEN, RPR, FPR-C

ERRATA SHEET

DO NOT WRITE ON THE TRANSCRIPT - ENTER CHANGES

IN RE: GUASTO V CITY OF MIAMI BEACH
CASE NO: 1:22-cv-21004-DPG
DATE: MARCH 15, 2024
DEPONENT NAME: JESSICA SALABARRIA

PAGE/LINE	CORRECTION	REASON
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(Use other side if necessary)

Under penalties of perjury, I declare that I have read the foregoing document and that the facts stated are true.

JESSICA SALABARRIA

DATE

COASTAL REPORTING, INC. (954) 523-5326

DATE: MARCH 27, 2024

JESSICA SALABARRIA
C/O DANIEL B. BARROUKH, ESQ.
DEREK SMITH LAW GROUP, PLLC
520 BRICKELL KEY DRIVE
SUITE 0-301
MIAMI, FLORIDA 33131-2433
DANIELB@DEREKSMITHLAW.COM

IN RE: GUASTO V CITY OF MIAMI BEACH
Continued Video Deposition of Jessica Salabarría

This letter is to advise you that the transcript taken in the above-referenced deposition has been transcribed. Please contact our office at (954) 523-5326 to make arrangements to read and sign or sign below to waive review of the transcript.

It is suggested that the review of this transcript be completed within 30 days of your receipt of this letter as considered reasonable under Federal Rules*; however, there is no Florida Statute to this regard.

The original of this transcript has been forwarded to the ordering party and your errata, once received, will be forwarded to all ordering parties for inclusion in the transcript.

Very truly yours,


Tamara Masci Tannen, RPR

Waiver:

I, _____, hereby waive the reading and signing of my deposition transcript.

DEPONENT _____ DATE _____

*Federal Civil Procedure Rule 30(e) Florida Civil Procedure Rule 1.310(e).

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BY MR. ELKINS: [34]

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199/20 204/3 204/16
205/1 205/8 205/17
205/23 206/16 207/6
207/11 211/8 212/10
215/4 220/4 221/19
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224/13 224/20 225/21
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230/2 231/14 232/15
234/21 235/21 238/16
239/12

MR. BARROUKH: [48]

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